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ABSTRACT

This report of the Senate Committee on Labor and Human Resources unanimously supports the passage of a bill (Senate Bill 1578) which amends the Individuals with Disabilities Education Act (IDEA) and authorizes appropriations for fiscal years 1997 through 2002. The bill amends parts A through H of IDEA. Amendments are intended to reduce unnecessary administrative burdens and increase flexibility for state and local educational agencies, while continuing the national commitment to ensure that all children with disabilities have available a free appropriate public education. Title I of the proposed bill revises general provisions and grant application procedures. Title II reorganizes and simplifies eligibility, procedural guidelines and safeguards, and administrative requirements. Title III authorizes a competitive state systems-change grant program. Title IV provides for improving educational services through research, demonstrations, outreach, and personnel preparation activities to be coordinated with local and state efforts. It consolidates programs authorized in parts D and E in current law. Title V also consolidates programs and authorizes the continued funding of technical assistance, support, and dissemination projects (including Parent Training and Information Centers) and technology and media projects. Title VI contains minor amendments to Part H of the present law, which provides early intervention services for infants and toddlers with disabilities. Separate sections of the report present information on the historical background of and need for the legislation, cost estimates, the regulatory impact statement, a section-by-section analysis, views of individual senators, and the text of both the original law and the proposed amendments. (DB)

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INDIVIDUALS WITH DISABILITIES EDUCATION ACT AMENDMENTS OF 1996

MAY 20, 1996.—Ordered to be printed

Mrs. KASSEBAUM, from the Committee on Labor and Human Resources, submitted the following

REPORT

together with

ADDITIONAL VIEWS

[To accompany S. 1578]

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The Committee on Labor and Human Resources, to which was referred the bill (S. 1578) to amend the Individuals with Disabilities Education Act to authorize appropriations for fiscal years 1997 through 2002, and for other purposes, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill (as amended) do pass.

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I. INTRODUCTION

On March 21, 1996, the Committee on Labor and Human Resources, on a unanimous recorded vote of 16 to 0, ordered favorably

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reported S. 1578, the Individuals with Disabilities Education Act Amendments of 1996.

The bill is sponsored by Senator Frist, chairman of the Subcommittee on Disability Policy, and cosponsored by Senators Harkin, Bingaman, Bumpers, Burns, Chafee, Craig, DeWine, Dodd, Domenici, Feingold, Ford, Hutchison, Inhofe, Inouye, Jeffords, Kempthorne, Kennedy, Kohl, McCain, McConnell, Mikulski, Murkowski, Pell, Pressler, Simon, Simpson, Stevens, and Warner.

SUMMARY OF S. 1578

Senate bill 1578 amends parts A through H of the Individuals with Disabilities Education Act (IDEA). The bill reduces unnecessary administrative burden and increases flexibility for State and local educational agencies, while continuing the national commitment to ensure that all children with disabilities have available a free appropriate public education.

TITLE I

General provisions

Title I of the bill amends part A of IDEA. It updates the findings and purposes of the act to reflect changes made in the education of children with disabilities over the past 20 years. The purposes are revised to incorporate all relevant IDEA programs, including the State grant program under part B, the early intervention program for infants and toddlers with disabilities under part H, and the various support programs in the act, as revised by S. 1578, including part C (systems-change activities), part D (coordinated research and personnel preparation), and part E (coordinated technical assistance, dissemination, technology development, and media services).

Grant application procedures for support programs under IDEA

Title I of the bill further amends part A of IDEA to require the Secretary to develop a comprehensive plan for activities under parts D and E of the act (as amended by titles IV and V of the bill) to enhance services to children with disabilities under parts B and H; and to revise the peer review process for grants (these provisions apply to parts C though E of the act, as amended, and to parts C through G under current law, in selected circumstances during the transition year, i.e., fiscal year 1997).

TITLE II

Grants to States

Title II of the bill amends part B of IDEA. The bill increases procedural, administrative, and fiscal flexibility to States in the provision of special education and related services to children with disabilities. Title II of the bill reorganizes and simplifies eligibility, procedural guidelines and safeguards, and administrative requirements. It increases local flexibility in the use of funds and in program innovation; helps children with disabilities succeed in the general education curriculum and participate in statewide and districtwide assessments of student progress; and links Federal studies and evaluations to critical ongoing needs for information.

Funding formula

No change to the current funding formula is made in title II of the bill.

State eligibility

Title II of the bill streamlines the State eligibility requirements in the act. Each State will submit new information only once to the U.S. Department of Education to demonstrate eligibility under part B of the act, and then amend such information only when substantial changes in State law or policy are made.

Local educational agency eligibility

The bill simplifies the eligibility process for local educational agencies (LEAs). Each State Educational Agency (SEA) may allow LEAs in the State to submit new information to the SEA only once, and amend such information only when substantial changes in local policies are made. The bill also authorizes increased local flexibility in the use of funds and encourages local innovation in serving children with disabilities.

Evaluations, reevaluations, individualized education programs (IEPs) and placements

The bill directs schools to collect evaluation and other information that is relevant and necessary to establish a child's eligibility for special education and related services, and to help teachers instruct children with disabilities. The bill also retains the 3-year reevaluation requirement in a modified form. Title II also clarifies the IEP requirements by placing them in one place in the act and by distinguishing between process- and documentation-related activities; and emphasizes that the IEP is intended to help a child in the general education curriculum and setting. If, because of the nature of a child's disability the child needs instruction in self-help and social skills, then such instruction shall be reflected in the child's IEP.

Discipline

The bill describes how schools may discipline children with disabilities.

Mediation

The bill requires that States offer voluntary mediation to resolve disputes between parents of children with disabilities and educational agencies. The act maintains parental rights and access to due process.

Attorneys' fees

The bill provides guidelines for awarding attorneys' fees to prevailing parents by direct reference to guidelines laid out in *Hensley* v. *Eckerhart*. New notification obligations are placed on parents who intend to request a due process hearing in certain circumstances. If parents fail toprovide such notice, their fee award, if they prevail, could be reduced by the court.

Policy letters

The bill prohibits the Secretary from using policy letters to establish a rule that is required for compliance with and eligibility under part B of IDEA. This limitation applies to the use of existing policy letters and future policy letters. Summaries and lists of policy letters must be published in the Federal Register in a timely manner.

Reports and evaluations

The bill simplifies State reporting requirements and links Federal studies and evaluations more closely to provisions in the act as amended. It mandates certain studies that require national longitudinal data. It establishes special data collection and reporting activities for tracking discipline-related practices and their effects.

Funding obligations of noneducational agencies

The bill requires interagency agreements and reimbursement mechanisms to ensure that educational agencies have access to funding from noneducational public agencies that are responsible for services that are also necessary for ensuring a free appropriate public education to children with disabilities.

Unilateral placement by parents of children with disabilities in private schools

The bill clarifies the conditions under which an LEA may, or may not, be required to pay for the education of a child with a disability who is unilaterally placed in a private school by the child's parents.

Transition from part H programs

The bill ensures that the State has procedures in place for notifying LEAs when educational planning conferences are to be convened involving infants and toddlers with disabilities. The bill also includes language permitting planning for infants and toddlers transitioning to part B programs to begin up to six (6) calendar months prior to the child's third birthday.

Comprehensive system of personnel development (CSPD)

The bill simplifies State requirements with regard to the CSPD and LEA involvement with the CSPD.

Professional standards

The bill clarifies that LEAs may use paraprofessionals who are trained and supervised in accordance with State law.

General education initiatives

The bill ties IDEA to general education reform initiatives by requiring States to establish performance goals and indicators for children with disabilities and by ensuring that these children participate, with necessary accommodations, in general Statewide and districtwide assessments of student progress.

Local maintenance of effort relief

The bill provides that the level of expenditures within each LEA from State and local funds must not drop below the level of such expenditures for the preceding fiscal year, but provides four specific exceptions.

Flexibility in use of funds

The bill gives LEAs greater flexibility in the use of part B funds as long as children with disabilities receive needed special education and related services.

TITLE III

Promoting systems change to improve educational services and results

Part C of the act is amended by title III of the bill. The bill authorizes a competitive State systems-change grant program. States, in partnership with other entities, will be able to apply for planning and implementation grants to conduct systems-change initiatives to improve early intervention, education, and transition services and results for children with disabilities.

SEA and LEA assistance and incentives

The new part C of the act allows for assistance and incentives to States and LEAs to address State system wide priorities of national significance (e.g., school-based discipline strategies, flexible funding strategies, and collaborating with general education reform initiatives, and how to be accountable for and measure the progress of children with disabilities).

Linkages

Overtime, information derived from grants under the new part C of the act will affect and be coordinated with training, research, technical assistance, and dissemination activities authorized under parts D and E of IDEA, as amended by titles IV and V of the bill.

Collaboration

The bill allows a State to collaborate with other States and other entities to address regional or national systemic problems or issues.

TITLE IV

Improving educational services and results for children with disabilities through coordinated research and personnel preparation

Title IV of the bill amends part D of the act. The bill provides for research, demonstrations, outreach, and personnel preparation activities which are coordinated with local and State efforts to improve educational systems and to improve early intervention and educational results for children with disabilities. The bill consolidates programs authorized in parts D and E in current law.

Research and innovation

The bill authorizes funding for research and innovation activities under the areas of new knowledge production, integration of research and practice, and improving the use of professional knowledge.

Personnel preparation

The bill authorizes funding for personnel preparation activities under the areas of high-incidence disabilities, leadership preparation, low incidence disabilities, and projects of national significance.

TITLE V

Improving educational services and results for children with disabilities through coordinated technical assistance, support and dissemination

Title V of the bill consolidates programs authorized in parts D and E in current law. Title V authorizes the continued funding of Parent Training and Information Centers that provide information and training to parents, helping them participate in the education of their child with a disability.

Technology and media

The bill authorizes funding for technology and media projects that help children with disabilities and their families understand, access and benefit from assistive technology, special media and captioned materials. It also authorizes funding for technical assistance and dissemination of information through clearinghouses, one national resource center, multiple regional resource centers, and several special-focus technical assistance centers.

TITLE VI

Infants and toddlers with disabilities

Title VI of the bill amends part H of the act, the early intervention program for infants and toddlers with disabilities. Title VI contains minor amendments to part H.

At-risk infants and toddlers

The bill permits States that are not currently serving infants and toddlers at risk of developing disabilities to refer these children to other (nonpart H) services, and to conduct periodic follow-ups on each referral to determine if the child's eligibility under part H has changed.

Developmental delay

The bill directs the Federal Interagency Coordinating Council to convene a panel to develop recommendations regarding a model definition of "developmental delay" to assist States, as appropriate, with their respective definitions.

Transition to preschool

To promote a smooth transition for toddlers with disabilities from the part H program to preschool services under part B, the bill permits educational planning to begin up to 6 months before the child's third birthday, if the parents and appropriate agency personnel agree.

II. BACKGROUND AND NEED FOR THE LEGISLATION

LEGISLATIVE HISTORY

In 1966, Congress established a State grant program for the Education of Handicapped Children under Title VI of the Elementary and Secondary Education Amendments of 1966 (P.L. 89–750). In 1970, Congress established the Education of the Handicapped Act as Title VI of Public Law 91–230. With the enactment of Public Law 91–230, the State grant program established in 1966 was redesignated as part B of the EHA. In 1975, Congress enacted the Education for all Handicapped Children Act (P.L. 94–142), which made significant amendments to the part B program to address major problems facing the education of children with disabilities. (The EHA was renamed the Individuals with Disabilities Education Act (IDEA) by P.L. 101–476 in 1990). Prior to the enactment of P.L. 94–142, it was estimated that 1 million children were excluded from the public school system and another 4 million children did not receive appropriate educational services to enable them to have an equal educational opportunity.

P.L. 94–142 sought to remedy this situation by providing (1) a free appropriate public education (FAPE) to each child with a disability; and (2) by providing procedural safeguards, including due process, to protect the rights of children with disabilities and their families.

Twenty-one years ago, before P.L. 94–142, a newborn with disabilities had little hope of receiving help during the critical early years of development; most severely disabled children who went to school were segregated in buildings away from their siblings and peers; and many young people with disabilities were destined for lives spent in an institution. Young people with less-obvious disabilities were denied access to public education because they were considered "too disruptive" or "unruly." These children tended to grow up on the streets and at home with no consistent access to an appropriate education.

Today, after 21 years under The IDEA, infants and toddlers with disabilities receive early intervention services; many children with and without disabilities attend school together; and many young people with disabilities are expected to learn life skills and work skills that will allow them to be more independent and productive adults. Children without disabilities are benefiting from first-hand knowledge of disability as a natural part of the human experience, and they are benefiting from individualized education techniques and strategies developed by the Nation's special educators. Children with and without disabilities whose behavior is disruptive are benefiting from recently developed positive behavior management techniques which are only now becoming widely known to and used by educators.

Children with disabilities are now much more likely to be valued members of school communities, and the Nation can look forward to a day when people with disabilities will be valued members of all American communities. There is no doubt that the Nation is moving toward accomplishing the goals it set for itself with the passage of IDEA.

In the 21 years since the enactment of IDEA, bureaucratic inefficiencies and procedural inequities have emerged in the delivery of general education and special education. Calls for educational reform have been made and ambitious plans have been developed for improving the performance of schools. Educational agencies are actively involved in examining the efficacy of traditional approaches to instruction and in developing credible improvements. Increasingly, school systems are relying on community-based and school-based teams to design or select better ways to teach children. Not everyone responsible for or involved in educational reform is aware of the discrimination faced by children with disabilities and their families before IDEA. Thus, it is imperative that the civil right to a free appropriate public education for children with disabilities established in IDEA be maintained and used as a catalyst to promote policies and strategies that reflect the needs of these children in connection with school reform or restructuring. It is imperative that more is done to make general education and special education, systems that blend to help children with disabilities and children at risk of failure, succeed.

Moreover, with the strong public interest in education and in greater accountability for results, it is important to use the basic civil rights tenets in IDEA to promote the use of the general education curriculum and standards associated with it, in teaching and judging the educational progress of children with disabilities. Educators should be encouraged to consider and use indicators of student progress that allow meaningful tracking of the progress of children with disabilities along with the tracking of other children.

By preserving rights of children with disabilities to a free appropriate public education; by providing school districts with new degrees of procedural, fiscal, and administrative flexibility; and by promoting the consideration of children with disabilities in actions to reform schools and make them accountable for student progress, IDEA will remain a viable, useful law that will provide guidance well into the next century.

HEARINGS, BRIEFINGS AND TESTIMONY

The Committee on Labor and Human Resources Subcommittee on Disability Policy and its House counterpart held a hearing on May 9, 1995, on the 20th anniversary of IDEA focusing on its implementation and recommendations for improvement. The Subcommittee on Disability Policy held hearings on May 11 and 16, 1995, on IDEA, focusing on its implementation and recommendations for improvement. The subcommittee held a fourth hearing on July 11, 1995 to examine issues related to disciplining children with disabilities.

The subcommittee heard from individuals with experience in programs for children with disabilities—including those who are enrolled in such programs, their family members, those who run programs and researchers and teacher trainers supporting programs. In addition, the subcommittee heard testimony from the Congressional Research Service, representatives of consumer advocacy groups and scholars who study educational programs for children with disabilities.

The general purposes of these hearings were to reaffirm the need for the act, to identify its impact on children with disabilities, their families, and educators, and to determine how to ensure that the act will continue to be a catalyst for improvement in educational services for children with disabilities into the next century.

Summary of hearings

The first hearing, May 9, 1995, was a joint hearing before the Subcommittee on Disability Policy of the Committee on Labor and Human Resources, U.S. Senate and the Subcommittee on Early Childhood, Youth, and Families of the Committee on Economic and Educational Opportunities, U.S. House of Representatives. The focus of this hearing, in recognition of the 20th anniversary of IDEA, was the rationale for the law, its impact on the lives of children with disabilities and their families, and recommendations for its improvement.

On May 9 the subcommittees heard testimony from 13 witnesses, including Senators Jim Jeffords of Vermont and Paul Simon of Illinois. Both were Members of the House of Representatives when P.L. 94–142, the Education for All Handicapped Children Act of 1975 was enacted on November 29, 1975. (P.L. 94–142 amended the Education of the Handicapped Act.) The subcommittee also received written testimony from John Brademas, the original House sponsor of the legislation and chairman of the House Subcommittee on Select Education at the time.

Because of their involvement in events that influenced the enactment of IDEA's antecedent, P.L. 94–42, witnesses on May 9 were able to offer a historical perspective, a sense of the impact of the law, and suggestions for improvement in the law. Witnesses had participated in landmark court cases in the early 1970s, served as staff on House or Senate committees drafting the legislation that became P.L. 94–42, or were advocates who influenced the legislation as it was moving through Congress.

All witnesses endorsed the original intent of the legislation to provide each child with a disability with access to a free appropriate public education. They also acknowledged that, in large measure, the approach the law laid out with regard to rights and responsibilities has worked to benefit children with disabilities and to strengthen the capacity of schools and professionals to accommodate the children's special needs.

The second hearing, held by the Senate Subcommittee on Disability on May 11, 1995, had "partnership" as its theme—partnership between friends, between parents and their children, between students and educators, between special and general educators, between teachers and administrators, and between teachers and researchers—partnerships that have worked in part because IDEA has provided the framework and resources that have facilitated the provision of a free appropriate public education to children with disabilities. Twenty witnesses testified. Witnesses were young people who had graduated from high school and who had benefited from special education, current students who brought a perspective on special education services now, special educators including a gifted and talented educator, local and State special education administrators, teams of special and general educators who work together in classrooms, university professors of special education, and university researchers.

The focus of the third hearing on IDEA was broad in scope. Held on May 16, 1995, it focused on the flexibility in part B of IDEA (the State grant program which authorizes funds for States to spend on special education and related services for children with disabilities between 3 through 21 years of age, and specifies requirements that must be met in order to receive funds) and the effects of such flexibility; the participation of children with disabilities in statewide and districtwide assessments of student progress; the need to include children with disabilities in school reform initiatives; and the importance of taking research about high incidence disabilities into account in the design of new approaches to instruction and grouping of children. Seven witnesses testified before the subcommittee on May 16, 1995. Witnesses included a parent who chairs her State interagency coordinating council, State special education directors, the special education assistant superintendent of a large urban district, and a neurophysiologist specializing in learning disabilities.

The final hearing on the reauthorization of IDEA was held by the Subcommittee on Disability Policy on July 11, 1995. The purpose of the hearing was threefold: (1) to create a public record on the effects of Federal policy on the ability of school district personnel to discipline students with disabilities who are a danger to themselves or others; (2) to learn how part B of IDEA might be amended to spell out the scope and limits of school personnel's discretion when disciplining such students; and (3) to lay the groundwork for an extended dialog on the issue of disciplining students with disabilities. The hearing was to provide answers to several basic questions: (1) What is current Federal policy? (2) Is the policy understood? (3) Is the policy followed? (4) When it is followed, does it work? (4) To the extent that it is not understood, is not followed, or does not work, how can it be strengthened? Ten witnesses testified. Witnesses included a Congressional Research Service staff attorney, a superintendent of a large urban district, a parent representative for people with attention deficit disorder, a representative of the national PTA, representatives of associations of teachers, principals and school boards, and advocates who have worked with IDEA.

Testimony

Conditions prior to the enactment of P.L. 94–142

In the May 9 hearing, Thomas Gilhool, an attorney with the Public Interest Law Center of Philadelphia, Martha Ziegler, the executive director of the Federation for Children with Special Needs, and other witnesses indicated that many children with disabilities were being denied an education prior to the enactment of P.L. 94–142. This was affirmed by John Brademas, president of New York University and in 1974 the chairman of the House Subcommittee on Select Education, in written testimony. According to several witnesses on May 9, these children were being characterized as uneducable and untrainable, too disruptive, not yet of sufficient mental age, or unable to benefit from further education. Those that were being educated were taught in segregated, often substandard settings.

Mr. Gilhool, an attorney for the plaintiff in *Pennsylvania Association for Retarded Citizens* v. *the Commonwealth of Pennsylvania* (the PARC case), and other witnesses: Thomas Masterson, the judge that authored the PARC decision, and Dennis Haggerty, the master in the implementation of the consent decree in the PARC decision, each affirmed that the 14th Amendment (the equal protection clause) of the Constitution establishes the civil right to an education for a child with a disability. This right was at issue in the PARC case. The PARC decision and the decision in *Mills* v. *the Board of Education, Washington, D.C.* (the Mills case), which involved the denial of education to children who were thought to be serious discipline problems, laid the legal groundwork for P.L. 94–142.

On May 9, Mr. Tepper, an attorney for the plaintiff in the Mills case, recounted the practice of denying an education to children with disabilities in Washington, D.C. and raised questions about the consequences of denying an education to children with disabilities.

> In the early 1970s, the District of Columbia had thousands of kids out of school on suspension. Of them, over 3,000 were suspended as behavioral problems who were actually exceptional children.* * * Picture in any given year 3,000 or so school-aged children out of school indefinitely, growing older without education or training. * * * Children all too quickly become adults. What do you see these modern-day outcasts doing each day? Would you expect them to learn anything useful? Would you expect them to be able to do something next year that they could not do now? Under whose daily influence do you see them completing their childhood?

John Brademas expressed in his written testimony that Congress was compelled to act to ensure an education for children with disabilities; that there was overwhelming bipartisan support for such action. He also stated that—

> The Education for All Handicapped Children Act [P.L. 94–142] was not brought about because John Brademas and several other Members of the House and Senate suddenly decided that the Federal Government should impose some onerous, horrendous mandate on State and local governments to do something they did not want to do. Rather, we wrote a statute that provided States and local school systems additional resources to do what they should have, by their own laws and court orders, been doing but were failing to do.

Such State actions posed challenges. Fred Weintraub, senior director of Publications and Professional Standards, Council for Exceptional Children, told the subcommittees on May 9 that although in 1974 there was a growing body of literature indicating that all children could learn, there were two barriers to a free appropriate public education for all children with disabilities—there was no one set of rules and there was not enough money.

Mr. Weintraub testified—

> Between the State legislative efforts and the court decisions, we were faced in the late 1960s and early 1970s with two problems. One was an emerging set of court decisions that kept changing the rules. Part of the problem was while we were winning the cases, each case created new policy and schools around the country did not know what was a rational set of policies. * * * The second issue was that as the courts and the State legislatures demanded more, school districts found themselves shorter and shorter of dollars to serve the students.

The importance of funding also was highlighted by Michael Resnick, senior associate director of the National School Boards Association, and another witness on May 9, the Honorable Patricia Wald (now a justice with the U.S. Court of Appeals, District of Columbia Circuit), at the time of the Mills case, an attorney for the plaintiff. Judge Wald stated that "special education is essential but also expensive." In her testimony she recalled a statement she made in March 1974 before Chairman Brademas' Subcommittee on Select Education, which, at the time, was writing the House version of P.L. 94–142.

> No matter what a court or legislature says or no matter what the good intentions of following the law, if money is not there, it cannot be allocated. * * * where special education funds have to compete with regular education funds, there is a continual war between them.

Lisa Walker, also a witness at the first hearing, identified another barrier to the provision of a free appropriate public education to children with disabilities. Ms. Walker, executive director of the Education Writers Association and, at the time of P.L. 94–142, a professional staff member on the Senate Committee on Labor and Human Resources, pointed out that when children with disabilities were educated, a wide range of agencies within and across States were involved. There was no single line of authority or responsibility.

The push to establish one Federal policy on the rights of children with disabilities to a free appropriate education was helped not only by the desire for one set of rules, substantial Federal funding, and a single line of authority, but by three other key factors: the recognized value of a parent-educator partnership in the educational process; the merits of an individual child-centered approach to educational planning; and the recognition of the need for procedural safeguards. Witnesses recognized these components of the law as primary reasons for its continuing viability. In describing the rationale for the individualized education program (IEP) in P.L. 94–142, Mr. Weintraub made this point on May 9—

> One of the things we all knew, whether Members of Congress, advocates, staff, and others, was we did not know what the proper special education or education for a child may be. We knew that there were millions of children, all

> whose problem was that they had individual needs that the schools were having difficulty meeting. * * *
>
> We wanted a law that talked about Johnny, Mary, Susie, not about a class or group of children. So what we said was we needed a system that was individualized, that knew no inherent truth of what was right, but created a process whereby parents, educators and others could come together and reach agreement. If they could not reach agreement, then there was a process to resolve those disagreements. * * *
>
> The real strength of this legislation [is] that we have got a process that is based on the individual, that leaves it to that child, to their families, to the educators to make what the right decision is.

Issues that have evolved since the passage of P.L. 94–142

As in the May 9 hearing, in the three subsequent hearings on IDEA, no witness challenged the durability and need for IDEA, but many witnesses identified issues that have emerged that should be addressed in IDEA reauthorization bill. Throughout the hearings, witnesses stressed the need to update and strengthen IDEA so that it will continue to serve as civil rights protection for children with disabilities, as a source of funding for educational programs in which such children participate, and as a catalyst for capacity-building and innovation within educational environments. The following issues figured prominently in testimony: new demands on resources; pressure for more school accountability; a need to ensure access to emerging educational opportunities for children with disabilities; a desire to reduce legal confrontation between parents and school districts; expanding the capacity of schools to meet the needs of children with disabilities; and adjusting the "stay-put" rule in IDEA to give school authorities increased flexibility in selected situations involving actions of children with disabilities that violate school discipline policy.

Testimony from the subcommittee hearings on IDEA formed the basis for a set of principles to guide the process of reauthorization of IDEA. These principles reflect the progress that has occurred over the last twenty-one years under IDEA and the opportunities now available to children with disabilities. The principles which have shaped the 1996 reauthorization of IDEA are as follows, and the principles and the testimony from which they were derived are then explained separately below.

The 1996 IDEA reauthorization principles are:

1. Children with disabilities and their family members will be the central focus of the reauthorization.
2. Only those provisions in current law which can be improved upon will be addressed, and those provisions which are working well will be maintained.
3. Incentives will be provided that encourage schools to serve children, based upon the individual needs of these children within the general education curriculum.
4. Incentives will be provided to encourage and prepare educators to include children with disabilities in school-wide inno-

vations, reform efforts, and Statewide and districtwide assessments of student progress.

5. Clear linkages will be created between discretionary programs and State grant programs, so that discretionary grants support improved services for children with disabilities and their family members, contributing to improved educational and transitional results for children with disabilities.

6. Educators will be given clear guidance on how they may discipline children with disabilities who violate local educational agency or school rules or codes of conduct.

Focus on children with disabilities and their family members

The primary focus of IDEA is and has been the provision of a free appropriate public education (FAPE) within the least restrictive environment (LRE) for children with disabilities. While there has been significant progress toward the attainment of this focus, numerous challenges and needs remain. Now that most children with disabilities are being served in schools and are receiving services and opportunities based on individual needs, there remains a need to place greater emphasis on improving the quality of services received and on the educational and transitional results or outcomes obtained by students. Despite progress, the U.S. Department of Education Office of Special Education Programs' recent National Longitudinal Transition Study of Special Education indicated that educational achievement and post-school outcomes for children with disabilities remain less than satisfactory. Without appropriate interventions, children with disabilities representing a diverse range of needs are failing courses and dropping out of school, potentially getting in trouble with the legal system and spending time in jail. Enrollments of children with disabilities in post- secondary education are low, and while employment rates are improving, they are still unsatisfactory. The committee recognizes that some children are unserved and underserved by special education and related services and others are inappropriately identified and placed in overly-restrictive settings. A major challenge is to ensure that children from diverse linguistic and cultural backgrounds are appropriately served under IDEA. According to testimony delivered during Subcommittee on Disability Policy hearings, the quality of services and educational results for children with disabilities can be improved by taking the following actions:

(a) Improve IEP process. Testimony indicated that there is a need to improve the quality and utility of IEPs for teachers and family members. According to many disability advocacy groups, the overall purpose of the IEP should be clarified and strengthened as planning for children with disabilities within the context of the general education curriculum. Further, concern was voiced about the lack of participation and about dissatisfaction of parents with the process and content of the IEP planning meetings. In spite of provisions mandating parent participation in decision making, parents in many parts of the country still feel largely left out of the IEP process. Laurie Collins, parent of a child with disabilities from the State of North Carolina, testified on May 16, 1995—

> I think we always must remember that children are part of a whole, that they do not exist out there in a vacuum,

> and that for the law to really work, it has to work with the family. I think there is a lot of concern about funding the cost of school systems helping families; they feel they have enough on their plate dealing with the children.

Several other witnesses testified about their unsatisfactory experiences with IEP meetings and their unsuccessful efforts to obtain appropriate services for their children.

(b) Monitor results, not only process. In testimony, witnesses said that the role of the Federal Government should not be limited to monitoring compliance with the provisions of part B of IDEA but should also monitor the quality of services delivered, as assessed by improved educational and transitional results for children with disabilities. Monitoring has often focused solely on student access and the provision of services rather than upon the results achieved. In the Subcommittee on Disability Policy hearing on May 16, 1995, several witnesses testifying in support of the reauthorization addressed the need for improved accountability for educational results for children with disabilities. Dr. Steve Kukic, director of Services for Students at Risk at the Utah State Department of Education, testified that—

> The National Association of State Directors of Special Education produced a model for a balanced system of accountability. In this model, we suggest that system results, individual student learning, and results and inputs and processes are all essential if you are going to have a balanced system for accountability. With all three of these aspects of accountability being strong, we really will have a chance of being able to provide excellence with equity for all students.

Brian McNulty, associate commissioner for the Colorado Department of Education, testified —

> For the last 20 years we have focused on the processes of service provision and now we must turn our attention to the outcomes of our efforts, we must look at student performance. The focus of an IEP has been on meeting the legal requirements and assuring that all the federally required components have been completed. Federal and State monitoring have been required of the process and the components, but not of the content or student performance. As States move toward establishing content standards and assessments, there should be an alignment in IEPs and we should begin focusing on student progress toward meeting those standards.

Charlene Greene, director of Special Education for Chicago Public Schools, testified—

> It is no longer acceptable to assume that mere compliance with the process-oriented procedures of IDEA will automatically yield an outcome of improved student performance.

(c) Connect evaluations to student instruction. Witnesses urged that in order for students to achieve improved results, parents and teachers need usable information about children with disabilities'

strengths and weaknesses, and the services and supports necessary to address students' needs within the general education curriculum. Too often, evaluations and reevaluations consist of a battery of standardized tests that are unrelated to the child's instruction and/or academic progress. In testimony, there was agreement that excessive attention is devoted to identifying a disability, rather than gathering assessment information about what the student knows and needs to know to progress within the general education curriculum. Gene Nocha, a parent from the State of Kentucky, testified—

> At the IEP meeting, I was asking a group of professionals to think about educational outcomes for all children—even those who did not fit in their boxes and tracks. I had to constantly challenge a group of people to examine their own value system and to explore alternative ways to define and measure student progress.

Charlene Greene testified—

> Far too often in Chicago as elsewhere across the country, the evaluation process for children with disabilities involves a battery of standardized tests producing information that is commonly unrelated to a student's instruction or academic progress. More time and resources are spent on identifying the child's correct disability label than determining what the child knows, what the child needs to learn, or how the curriculum needs to be modified for the child to reach his/her full potential. We readily determine a student's weaknesses rather than strengths, and, based on these weaknesses, justify the removal of the student from his or her nondisabled peers. IDEA requirements should be redesigned to promote student evaluations that are relevant to instruction and that yield functional analyses of student learning styles.

(d) Focus on learning, not paperwork. Witnesses indicated that there is a need to maximize the extent to which special education resources are devoted to teaching and learning of children with disabilities and to promote a greater focus on quality and results, eliminating instructional irrelevant activities and unnecessary paperwork. Flexibility is needed for State and local educational agencies to streamline data collection requirements and focus on information that is helpful to schools and children with disabilities. According to the U.S. Department of Education "Vision Paper," research and experience have shown that the presence of a special education teacher and/or aide can significantly enhance the educational experience of all children in the classroom, however, the current incidental benefit rule discourages such practices. Whenever a special education teacher works in a regular classroom with both disabled and nondisabled children, only the time spent working with disabled children may be paid for by IDEA funds. The rule allows only an "incidental benefit" to nondisabled children. In practical terms, this means that personnel must spend an inordinate amount of time on paperwork to document the time and effort spent on working with disabled and nondisabled children so that

only that portion of the salary attributable to time spent solely with disabled children is paid for by IDEA funds. Research from a variety of fields has shown that there is a need to explore other types of accountability measurement that do not detract from focusing upon more effective educational services.

Charlene Greene testified to this concern—

> Federal requirements should support, not penalize, efforts by regular and special education teachers to instruct children with disabilities in the general education classroom. IDEA requirements should recognize the value of and encourage active sharing of expertise, so long as the needs of children with disabilities are met. Currently, special educators who assist in the regular classroom, must prepare and maintain extensive audit trails and waiver requests for approval by the State board of education.

According to testimony by Dr. Brian McNulty—

> Too often we in education have limited our expectations for children with disabilities. Rather than providing challenging content and instruction, these children have been offered an alternative, low level curriculum. These low expectations result in low performance and dismal results. As States like Colorado move toward establishing rigorous content standards and assessments for all students, we must find new ways to ensure the success of all of the students.

Further, Dr. James Ysseldyke, director of the National Center on Educational Outcomes at the University of Minnesota testified—

> I believe that considerable progress has been made in documentation of results, yet in spite of the progress we have made, not everyone believes that all students can learn; not everyone believes that we should account for the performance of all students when we make judgments about how we are doing, and not everyone believes that the educational system should be responsible for educating all students. There is tremendous incentive for not including kids with disabilities in statewide assessments. People worry that it will make you look bad. There is research conducted that shows when you put high-stakes assessments in place, and you ask people to be accountable as schools for kids, the referral rate to special education goes up, and kids get retained at grade level.

Focus on maintaining current law provisions which work while improving results for children

During the Subcommittee on Disability Policy hearings on May 11 and 16, 1995, several persons provided testimony supporting the maintenance of current law provisions for IDEA. Persons testifying included Marca Bristo, then chair-designate of the National Council on Disability —

> We are pleased to report that our research indicates that the basic principles and features associated with IDEA are as valid today as they were 20 years ago, thus our major

> finding is that very few amendments are needed to the act itself. There was strong support for the continuation and improvement of IDEA; even within the context of flawed implementation and limited funding, IDEA has made a remarkable difference in the lives of many it has served. What is needed now is significantly improved implementation, leading to a better education for all children. The consumers of special education that we have heard from were overwhelmingly clear that there is a great deal more that Congress, the U.S. Department of Education, and State and local education agencies can do to assure the equal protection of the law and to improve IDEA's implementation. There are still far too many shortcomings in special education practice, yet not a single person of the 400 witnesses advocated for anything but a fine tuning of the legislation.

In the subcommittee hearing on May 11, Dr. Brian McNulty testified—

> After 20 years, any law would benefit from a review, but the Congress could leave IDEA as it is and it still would remain a powerfully effective piece of legislation. More to the point, the act does not need any major changes. While minor changes could be helpful, I would encourage the committee to be cautious in the scope of its review. Millions of children with disabilities and their families look to the Congress to provide leadership, oversight, and resources for training and technical assistance. Without these key functions, we cannot expect to continue our progress, or reach our goal of full productive participation in society for individuals with disabilities.

Other testimony focused on maintaining and strengthening the act's provisions by addressing emerging issues and needs for additional guidance.

(a) Support due process and encourage mediation. Witnesses commented that there is a need to continue support for due process provisions, while adding voluntary and impartial mediation processes in areas of conflict between parents and schools. Due process hearings have required the commitment of significant amounts of financial and human resources, creating adversarial situations with school officials and family members viewing each other as opponents rather than partners. In response to due process issues, 31 States have developed mediation programs offering parents and schools the opportunity to learn from each other through mediation of their differences. Nancy Diehl, Director of the Parent Information and Training Center, Project STEP, from Tennessee testified—

> A direct result of the parent training movement has been that families are often able to work out any difference they have with schools without having to go through the legal proceedings. It is because of these procedural protections that parents are often able to use informal complaint resolution to save money and relationships,

resulting in children's programs being improved and school staff and families feeling like partners.

(b) Strengthen partnerships. Witnesses stated that there is a need to maintain and strengthen partnerships among the Parent Training and Information Programs, organizations of adults with disabilities, State educational agencies, and local educational agencies. Mr. Joe Fisher, Director of Special Education for the State of Tennessee, testified—

> Parent training partnership activities in Tennessee are based on the teaching and collaboration of our lawmakers, special educators, and regular educators, and parents as partners in creating and sharing a vision of systems-change that positively affects practices at the local education level. As we begin to unify our efforts at every agency level, we will be creating greater access and success for special students and transforming education for all students.

Encourage schools to serve children based on the student's needs within the general education curriculum

In the May, 1995 subcommittee hearings, several persons testified that IDEA would be more effective if amendments to strengthen the connection between IEPs and the general education curricula were included in a reauthorization bill.

Dr. Brian McNulty of Colorado said—

> Without access to the general education environment, many students will not reach either their potential or the standards that schools are setting. We must increase our commitment to assuring that all children with disabilities have the opportunity to learn alongside their typical peers through more effective monitoring and training of general and special educators.

Charlene Green of Chicago concurred—

> We must redesign the requirements for IEPs * * * to eliminate its product of fragmented goals with lower expectations and instructional relevance. Instead, the IEP must become an opportunity for parents and teachers to discuss how the student will achieve to high standards and have access to the general education curriculum. It must support the vision that special education is not a separate program or place, but a source of meaningful and effective services.

Encourage educators to include children with disabilities in school reform

Testimony at the May 1995 hearings pointed to a need to encourage those responsible for school reform to include systems which serve children with disabilities in their efforts. Among others, Dr. Brian McNulty of Colorado testified—

> Special education must be part of any school-wide reform initiatives. However, current restrictions in funding and staff utilization limit participation. The Congress

> should consider giving States and districts the authority to implement school-wide improvements similar to those under the Improving America's Schools Act * * * Reform in general education is not possible without reform in special education. To a large degree, special education has always functioned as a pressure relief valve for general education. When children are not succeeding in general education, they are referred to special education. While special education was created to meet the unique learning needs of children with disabilities, it was also intended to be a part of the general education system. Unfortunately, this is not what has occurred.

Link IDEA discretionary programs to State grant programs supporting improved educational and transitional services and results for children with disabilities

For 21 years, IDEA discretionary programs have contributed to the expansion of knowledge among professionals and parents, and to improvements in the delivery of services to children with disabilities. Each of the 14 programs was created to address a specific need, for example: systems-change grants to States in the areas of transition for high school students with disabilities and service coordination for children with severe disabilities have been instrumental in directing attention to and improving delivery of services for the targeted populations, and discretionary programs have supported a variety of professional development and training efforts that address personnel quality and quantity issues. Testimony delivered during hearings held by the Subcommittee on Disability Policy focused on the following related needs and issues.

(a) Link grants through a coordinated program of research and training. Discretionary programs have become fragmented over the past 15 years with many individual programs and numerous earmarks within the individual programs which are not linked to States which must address and remove barriers to improved services and results for children. Each of the 14 programs was created to address specific needs that special educators and advocates identified as important at that time. While the discretionary programs have made important contributions over the years, most people agree that they are not achieving their full potential. According to the U.S. Department of Education, the programs could and should do far more in supporting the efforts of families, teachers, schools, administrators, researchers, and institutions of higher education to work together to improve educational and transitional results for children with disabilities. Under current law, the 14 separate discretionary programs are free-standing and self-contained. The multiplicity and narrow focus of the programs have contributed to fragmentation which has resulted in a lack of substantial support for programs and a concomitant lack of substantial impact upon children with disabilities in more than a few States or districts. Moreover, there are significant gaps in current discretionary authorities (e.g., model projects for children with learning disabilities are limited to children under 8 years of age; model projects for drop-out prevention are limited to students who are in high school or who are severely emotionally disturbed).

(b) Link grants to needs of States. Discretionary programs have not been closely linked and/or responsive to the State implementation needs related to compliance with parts B and H of the act, often resulting in shortages of trained personnel and the lack of best practice implementation. Having been developed separately over the years to address specific issues, many of the discretionary programs bear little relationship to each other or to the key challenges that schools and States are facing in the implementation of parts B and H of the act. The U.S. Department of Education Vision Paper, discusses the need to link personnel preparation and research grants more closely with the needs of States to implement services to children with disabilities. The paper states—

> Grants to institutions of higher education to develop new pre-service and in-service training programs are not linked with ongoing State personnel development activities or to broader State and national goals such as the development of model national standards or cross-categorical certification. The need for coordinated professional development is particularly acute as States, school districts, and schools provide for participation of children with disabilities in curriculum aligned with State standards and the placement of more students in regular classrooms.

(c) Fund and disseminate practical research. Discretionary programs have not been structured or coordinated to support the translation of research findings into effective practice, resulting in limited implementation and impact in schools and with children with disabilities. During hearings of the Subcommittee on Disability Policy on May 11, 1996, Dr. Donald Deshler, director of the Institute for Research in Learning Disabilities, Center for Research on Learning, University of Kansas, testified—

> IDEA research has played a very instrumental role in forming administrative decision making, assessment practices, service delivery, and instructional practices. While the direction and nature of services that are provided to individuals with disabilities and their families are best determined at local and State levels, history has taught us that State and local agencies are generally not effective in conceptualizing and directing research and development activities.

Further, Dr. Steve Kukic testified—

> I think that in the last 20 years, because of IDEA funded research and development, we have unlocked some valid practices, and we know what they are. And for some reason, we have not had the courage to simply implement what we know works with children, and I think we really need to do that. That is going to require all of us in State departments and school districts and universities to swallow hard and admit that some of our long-held biases may not be what are best for kids.

(d) Address personnel shortages. According to States and local school districts, despite the role of IDEA in ensuring that personnel preparation programs are responsive to State needs, critical short-

ages exist in the special education workforce in both the quality and quantity of personnel necessary to work with children with disabilities. During hearings of the Subcommittee on Disability Policy on May 16, 1995, Dr. Herb Rieth, chairman of the Department of Special Education of Vanderbilt University, testified—

> Fortunately, due largely to the Federal presence in personnel preparation, more students are being served by qualified staff today than ever before. Over 5 million children with disabilities are served by 620,000 special educators and related service personnel. It is important to note that in order to be funded, personnel preparation grants must address the personnel needs as identified in the State's Comprehensive System of Personnel Development. This coordination ensures that university-based teacher training programs are responding to the personnel needs and shortages in a State.

Professional preparation programs for low-incidence groups have been especially difficult for individual States to support, even if the needs are well-identified, given the relatively small number of trainees and the high costs of training. Charlene Greene raised a number of questions relating to the need for quality and quantity of personnel in special education under current organizational models. Concerning the availability of personnel, she testified—

> The city of Chicago, like other school districts across the country, is experiencing unprecedented staff shortages. We currently have a need for over 1,000 appropriately certified staff persons for special education and related service positions. As cash-strapped systems sought to save fiscal resources through early retirement incentives, a shrinking labor pool of special education teachers exacerbated existing shortages. Critical shortages in speech and language and bilingual special education compound the matter.

(e) Address organizational development needs. During the May hearings, both parents and professionals spoke of a need for training to help special educators and general educators work together in one system. Ms. Greene of Chicago provided testimony concerning the need to restructure personnel training programs—

> Educational reform and paradigm shifts are charging full speed ahead in an environment in which special education and regular education have operated as separate systems, with separate bureaucracies and separate higher education training programs. Regular education teachers are being asked to include in their classrooms, children with disabilities, even though most of them have no specialized training. Similarly, special education teachers who have been trained to expect a separate working environment are now being asked to collaborate with regular education teachers in their classrooms. A coordinated national, State, local, and higher education strategy is needed if we are to be successful in overcoming this challenge.

Address discipline-related issues with policy clarification and personnel training

A separate hearing was held on July 11, 1995 to discuss issues surrounding discipline of children with disabilities, "Examining the Effect of Federal Policy on the Ability of School Systems to Discipline Students with Disabilities."

In that hearing, Dr. Steve Kukic, director of Services for Students at Risk at the Utah State Department of Education, and past president of the National Association of State Directors of Special Education (NASDSE), argued that the Nation would be best served by a "zero tolerance" policy including both "zero tolerance for violence and zero tolerance for wasting even one child or youth." Dr. Kukic believes that this policy becomes workable under IDEA when teachers receive the support they need to learn new approaches to deal with behavior problems of children both with and without disabilities, and if schools receive help from other agencies through interagency agreements.

In an effort to improve the safety of the Nation's schools so that teachers will be able to teach and students will be able to learn, participants agreed that major changes to IDEA were not necessary, and cessation of services would, in almost all cases, be counterproductive. Mr. Charles Weatherly, representing the National School Boards Association, testified—

> We are asking not to give school officials unilateral authority to suspend or expel children with disabilities. We are not asking to alter the procedural safeguards in any significant extent whatsoever. What we are asking is that the Senate consider an amendment to one provision which is the "stay put" provision of the statute. * * * We are asking for some very limited flexibility with school officials to remove [truly] dangerous children from school on a temporary basis. * * * a temporary removal that is not getting rid of them, while parents and school officials sit down and look for an alternative placement that will meet the needs of the child.

Ms. Marcia Reback, president of the Rhode Island Federation of Teachers, representing the American Federation of Teachers, testified—

> In a very narrow vein, *Honig* and IDEA restrictions should be modified—in cases of significant dangerousness the school principal should be empowered to act unilaterally to protect the lives and safety of others. But we also believe that under no circumstances should services be withheld.

In written testimony submitted by the National Education Association, the organization stated that—

> "Stay put" should remain intact except in three very limited circumstances: (1) weapons possession; (2) behavior dangerous to self or others; and (3) serious and chronic disruption. When a placement is changed, it is essential that the alternative setting includes elements of the program that help student to learn appropriate behavior.

Kathleen Boundy of the Center for Law and Education in Cambridge, MA and Diane Lipton of the Disability Rights Education and Defense Fund in Berkeley, CA testified that the current legal framework does not hamstring school officials in their efforts to ensure that schools are safe and conducive to learning. Parents testifying in the hearing supported efforts to control violence and to teach their children responsibility, and they voiced strong opinions that children with disabilities and their parents should be part of the solution.

Ms. Shirley Igo, vice president of the National Parent-Teacher Association testified—

> Violence prevention programs have to be a basis to open up communication * * * There is no violence prevention program that is in place universally, and we have to have that if we are going to make our schools safe * * * And schools have to be parent-friendly.

Ms. Bonnie Fell, a parent from Skokie, IL, testified that IEPs with appropriate accommodations for her children's disabilities helped them become more responsible for their behavior, overcome frustrations, and improve their self-esteem. She testified—

> As involved participants in the IEP process, my sons have learned to take responsibility for their actions and to ask for help in appropriate ways. They realize that having a disability does not mean they are destined to fail. They also understand the consequences of their behavior. * * * It is critically important to give children with disabilities the message that their disability is not in charge of their behavior, and that they are ultimately responsible for their acts or the things that they do, that they cannot say "I have ADD. What can you do?" That is not allowed in my house. * * * What skills do you need? * * * One [discipline strategy] cannot fit all. And parents cannot do it alone, teachers cannot do it alone. [We need] teacher training and parent training.

Throughout the hearing, educators and parents expressed that they were committed to working together to find better ways to provide better results for children who had problems with managing their behavior, and that any amendments should support collaboration between parties.

Kathleen Boundy testified further that solutions discovered in collaboration should be shared. Ms. Boundy argued that teachers should be given resources that will help them be full partners in the process and that practices which are effective at helping children manage their behavior should be collected and disseminated—

> I certainly would support any change that would affirmatively put more resources and more support to the local educational agencies, to support teachers, to disseminate state-of-the-art practices.

III. LEGISLATIVE CONSIDERATION AND VOTES IN COMMITTEE

At the request of the chairman of the Subcommittee on Disability Policy, the bill was considered directly by the Committee on Labor and Human Resources.

In an executive session of the Committee on Labor and Human Resources on Thursday, March 21, 1996, the legislation was considered.

The committee accepted the Frist amendment in the nature of a substitute as the subject for all amendments.

Senator Frist's discipline amendment was accepted by voice vote.

The Gregg amendment expressing the sense of the Senate that part B of IDEA should be fully funded failed on a roll call vote of 7 to 9.

Senator Kassebaum's amendment to modify the provisions relating to the obligation of a noneducational public agency to provide or pay for certain services to children with disabilities failed by voice vote.

The Frist and Harkin amendment to provide for a reduction of attorneys fees if parents fail to notify school districts of their intent to file for a due process hearing was accepted by voice vote.

A motion to favorably report Senator Frist's amendment in the nature of a substitute with technical and conforming amendments was unanimously accepted by a roll call vote of 16 yeas.

IV. EXPLANATION OF THE BILL AND COMMITTEE VIEWS

OVERVIEW OF COMMITTEE VIEWS

The right of a child with a disability to an education is preserved

The committee recognizes that IDEA is a civil rights statute. It guarantees access to a free appropriate public education for children with disabilities. The IDEA is founded in and secured by the 14th Amendment of the Constitution. This connection is reinforced through 21 years of case law and bipartisan legislative history. Thus, S. 1578 preserves the civil right of any child with a disability to a free appropriate public education.

The five principles that guided the development of the predecessor to IDEA, P.L. 94–142, are reflected and preserved in the committee bill. The five principles are: (1) educational planning for a child with a disability should be done on an individual basis; (2) parents of a child with a disability should participate in educational planning for their child; (3) decisions about a child's eligibility and education should be based on objective and accurate information; (4) if appropriate for a child with a disability, he or she should be educated in general education with necessary services and supports; and (5) parents and educators should have a means of resolving differences about a child's eligibility, IEP, educational placement, or other aspects of the provision of a free appropriate public education to the child.

Focused accountability expected

The bill addresses accountability. The committee intends that people involved in educational planning for a child with a disability will be expected to show results—where a child is and where a child is going in terms of the general education curriculum. How does he or she do in the classroom? How does he or she do on local or statewide assessments of student progress? Is a child receiving appropriate services and supports to demonstrate what he or she knows and can do? S. 1578 reshapes expectations for children with disabilities and creates a common frame of reference: the general education curriculum. The committee knows most children with disabilities can learn and benefit from the general education curriculum. Some may need to learn it at a slower pace or in a modified form. Some may need to demonstrate what they have learned in a different way than their peers. Nonetheless, they can learn and therefore should have the opportunity to learn what their brothers, sisters, and friends are learning.

The committee believes that unless we secure the general education curriculum as the educational anchor for most children with disabilities, their ability to succeed on districtwide and statewide assessments of student progress will be jeopardized. If they fail or perform poorly on such assessments, because they were taught from a watered-down general education curriculum or a different curriculum, we are reinforcing the beliefs of people who say that children with disabilities cannot learn as much or as well as other children. Moreover, if children are taught from a watered-down general education curriculum or a different curriculum, we may inadvertently create a justification for ignoring children with disabilities when undertaking school reform initiatives.

The committee anticipates that if the general education curriculum is the focus for planning for a child with a disability, it will improve communication throughout the system among—a child with a disability and peers, educators and the child's parents, special educators and general educators, related services professionals and teachers, and parents of children with and without disabilities. Such a focus also will affect expenditures and uses of personnel. The emphasis will shift to what services and supports are necessary in order for a child with a disability to succeed in the general education curriculum. This shift may save a school district money, while continuing an appropriate education for a child with a disability. If this focus takes off, and the committee believes it will work, not only will children with disabilities benefit, but children at risk of developing disabilities will benefit, because special and general education personnel will acquire new skills and supports that will equip them to serve children without labeling them first.

Culture in the educational environment should change

The committee expects that S. 1578 will affect the culture of schools—create new bases for teamwork, reinforce existing partnerships, and provide incentives to view the delivery of educational services to children with disabilities not as a distinct, separate mandate, but as an integral part of the overall business of education.

The committee believes that planning the education of any child with a disability should not be viewed as a contest, but as an opportunity for teamwork. S. 1578 includes many provisions which encourage and reinforce teamwork. Parents will be a source of information when compiling evaluation data on a child suspected of having or known to have a disability. Parents will have the opportunity to participate in placement meetings in which decisions that affect their child's education are made. Parents of children with disabilities will have the opportunity to help develop school-based improvement plans designed to expand and improve educational experiences for their children. Teachers—those who do or could work with disabled children—will be involved in providing and interpreting information on the educational and social strengths, progress, and needs of children with disabilities, which is used in IEP meetings. School districts will see a substantial reduction in paperwork under IDEA and will have increased flexibility on the use of personnel and the fiscal tracking of that use. Because of these amendments the committee anticipates that there will be more opportunities for educators and parents to have common goals; fewer reasons for administrators to call IDEA burdensome; more general and special education teachers and related services personnel working together; more children with disabilities succeeding in the general education curriculum; more children with disabilities participating in school reform initiatives; and most important, more children at risk of failure, succeeding.

Helping each child is an investment in the future

Early intervention

The committee recognizes that the part H Early Intervention Program has been extremely effective in reaching infants and toddlers with disabilities early in their young lives, often at birth. This early intervention program helps these young children, and their parents, unlock their abilities and become prepared to realize maximum benefits from their later preschool and school experiences.

S. 1578 directs the Federal Interagency Coordinating Council to develop a model definition for infants and toddlers at risk of being developmentally delayed. The committee is aware that early intervention professionals are very successful at diagnosing and serving infants and toddlers with disabilities; that is, disabilities which are discernible before, during, or shortly after birth. These professionals are experienced in developing appropriate intervention strategies for such children. The committee has learned, however, that these professionals are less successful in identifying infants and toddlers who show more subtle signs indicative of later disability. The committee anticipates that the model definition eventually will provide early intervention professionals with the tools to identify and reach greater numbers of at-risk infants and toddlers.

Through S. 1578, the committee also gives States increased administrative flexibility with regard to the transition of a child from an early intervention program funded by part H to a preschool program funded by section 619 of part B of IDEA. The committee believes that this flexibility will provide an incentive to focus on what is best for a particular child—allowing the child to remain in an early intervention program after his or her third birthday during a school year and to transition to a preschool program in the next school year. This flexibility includes the option of allowing the child's Individualized Family Service Plan (IFSP) to be the child's

IEP until planning is done for the next school year. The committee believes that as we continue to invest Federal funds in the very young lives of infants and toddlers with disabilities, we will deliver to our schools children who can learn more easily, participate more fully, and be less distinguishable from their peers in terms of expectations, progress, and friendships.

Flexible use of funds

Under certain conditions, S. 1578 would allow LEAs to provide special education services to a child with a disability in the regular classroom without having to track the costs of any benefit to nondisabled students from those services when children eligible for services under IDEA are being served with nondisabled children or children identified as disabled under the Americans with Disabilities Act of 1990 or section 504 of the Rehabilitation Act of 1973; or when a school has a school improvement plan in effect. The committee expects that this flexibility in the use of IDEA dollars will cause special education and general education school officials to rethink how services may be delivered more efficiently and more effectively, and to focus on each child's unique needs. The committee also intends that such flexibility will cause special education and regular education teachers to view their roles in reaching children as complementary and their responsibilities for helping all children to succeed as a joint effort.

The committee recognizes that many children from minority backgrounds are inappropriately identified as being eligible for special education and related services under IDEA. The committee anticipates that with the opportunity to use IDEA funds in more flexible ways, parents, teachers, and administrators will not need to use the referral and evaluation procedures connected to special education as frequently as in the past to secure more or different services for children from minority backgrounds.

No child to be lost or forgotten

The committee takes a broad view of the concept of "dropout." In S. 1578, numerous, interrelated provisions have been crafted to reduce the likelihood that a child with a disability will drop out of school and become disconnected from peers and professionals who can contribute to the child's growth and success in school. The committee expects that these provisions will require affirmative efforts on the part of educators, other professionals, and the parents of the child to keep the child connected in meaningful ways to the business of learning. The committee bill includes three sets of provisions which should decrease the number of children with disabilities being lost or forgotten by the educational system.

(a) Integrated transition services for secondary school students with disabilities. The committee believes that developing a secondary student's IEP for a particular year should not be an activity divorced from transition planning for the child that may encompass multiple years. Therefore, the committee amendments require that schools consider the transition needs of a child aged 14 or older as part of the IEP process. The committee expects that this clarification should result in simplification of administrative procedures. Secondary school personnel and personnel responsible for transi-

tion services, to the extent that they are different, will have a common process—the development or modification of a student's IEP—in which to make contributions and through which to influence what others may propose. Parents and children with disabilities will continue to have direct roles in the planning process as well. Students at the State-designated age of majority, in States that transfer rights to students, will be able to be the principal representative of their own interests and preferences. The committee expects that youth with disabilities will be interested and invested in decisions that affect their education and post-school choices.

(b) Clarification of fiscal responsibilities for related services. In order to succeed in school and connect to the social culture of school, the committee recognizes that children with disabilities may need more than specially designed instruction. In order to benefit from such instruction, they may need one of many related services, such as speech therapy, occupational therapy, physical therapy, or counseling. Such services may be critical at any time in the school years of a child with a disability, because they help a child acquire the tools to blend in and be accepted by peers and teachers—to communicate, to walk, to sit, to function more independently, to hold a pen, to use a keyboard, or to use socially appropriate behavior. The committee knows that accessing related services personnel can be costly and is not always easy, even when cost is not a factor. Thus, the committee amendments clearly establish that in certain situations fiscal responsibility for such services extends beyond school districts; spell out the broader obligation of other agencies and entities that could and should absorb such costs; and indicate that school districts have the opportunity to seek reimbursement from such agencies, when a child's eligibility for such services, funded by other than a local school district, is known while, at the same time, retaining the single line of responsibility being that of State educational agencies.

(c) School discipline and civil rights. The committee amendments on discipline offer educators and parents guidelines written in law on how to intervene and respond to a child with a disability who breaks school rules, at any age, at any time. These guidelines are reasonable, practical, and based on common sense. Once these guidelines are in effect, the committee believes that the focus will quickly shift from what a child did to how adults can help the child avoid dangerous or seriously disruptive behavior in the future. Parents, teachers, and principals will know that the law is on their side. They will have the right both to ask for help and participate in finding a solution. The committee clearly understands that attitudes cannot be legislated. However, the committee anticipates that, with the discipline provisions in S. 1578, the committee has given parents and educators tools with which to help children with disabilities, who might otherwise be terminally disenfranchised.

The balance in dispute resolution maintained

Within the committee amendments a systematic effort has been made to include provisions that foster collaboration among educators and parents—in designing programs and in developing a child's IEP. The committee anticipates that precedents set in the past and clarifications provided in these amendments will sustain and build on the collaboration between parents and educators that has been the hallmark of effective, individualized educational planning for children with disabilities. The committee amendments also highlight the value of information and sharing it in a timely manner. These themes carry over to amendments made to the procedural safeguards section of the law.

The committee amendments require States to have a voluntary mediation system which would allow parents and school districts a forum through which to attempt to work out disagreements about the education of a child with a disability. By using such a system, the committee expects parents and school districts may be able to avoid using formal administrative proceedings and courts to resolve differences. The committee amendments continue to require that school districts give parents necessary information about the procedural safeguards in IDEA—what they are, what they mean, and when they may be used. Connected with this school district obligation is a requirement that parents be informed of the consequences of providing or not providing certain notices to school districts; specifically a notice to the school district of parents' intent to file a request for due process under specified circumstances.

Support programs to help school districts serve children with disabilities

Targeted assistance to aid States with needed system wide improvements

The committee recognizes that the anticipated positive effects of S. 1578 will take time. To help the process, the committee restructured the 14 discretionary or support programs in IDEA—to facilitate the realization of these desired effects. The committee adopted a new part C State grant program to help States to address problems that have statewide implications. With new targeted funds, the committee expects States will be better able to design effective ways for general education and special education teachers to work in the same classrooms; to develop effective within-school options for addressing behaviors subject to school disciplinary measures; or to arrange and secure effective transitions for children with disabilities from early intervention to preschool programs, from high school to the adult world, or at some other important time in their lives.

Training funds allocated to State-based personnel shortages

In the bill, the committee links funding for personnel training and research clearly to the needs of children with disabilities, their families, school personnel, and school districts. The committee expects any institution that seeks a training grant to identify a personnel shortage that they intend to address. The committee also expects that any institution that seeks to train teachers to work with blind children must teach trainees how to teach braille.

Research targeted on instructional needs and validated results

The committee appreciates the fact that research takes extended effort. Research results are never immediate and are often modest building blocks toward some broader area of knowledge. Research requires a sustained, predictable level of commitment to funding its infrastructure. However, the committee expects researchers to keep their eye on the child in the classroom, the teacher in the classroom, the principal in the school, the child's parents, the school district, and the State Educational Agency. The committee expects researchers to provide information that benefits children with disabilities, their teachers, or other targeted audiences. Thus, in S. 1578, the committee places emphasis in the allocation of research dollars on lines of inquiry that are related chains of projects that will result in information that help teachers and others to assist children with disabilities succeed in the general education curriculum.

Results-oriented dissemination and technical assistance

In the bill, the committee maintains and reorganizes the Federal commitment to support information that helps children with disabilities, their parents, teachers, related service personnel, early intervention professionals, administrators, researchers, teacher trainers, and others learn about, access, and use state-of-the-art tools and strategies to be successful, to be effective as partners in the business of education. The committee intends for grantees who are involved in the business of information gathering and dissemination and the grantees who are responsible for technical assistance to make a difference—to know their audiences, to provide them with information and assistance that they need and can use, and to verify that their efforts counted, not just in terms of numbers of people reached or pieces of paper disseminated, but lives changed. Detailed information on the committee bill is outlined below.

TITLE I—GENERAL PROVISIONS

SHORT TITLE; FINDINGS; PURPOSES

Section 101 of the bill amends section 601 of the Individuals with Disabilities Education Act (hereafter referred to as the "the act" or "IDEA").

The bill updates the "findings" in section 601(b) of the act to reflect changes made in the education of children with disabilities over the past 20 years since enactment of the Education for All Handicapped Children Act of 1975 (Public Law 94–142), and to restate that the "right to equal educational opportunities" is inherent in the equal protection clause of the 14th Amendment to the U.S. Constitution.

The bill modifies the general "purposes" of IDEA in section 601(c) to incorporate all relevant IDEA programs in the purpose statements, including the State grant program under part B (which is addressed under current law), the early intervention program for infants and toddlers with disabilities under part H, and the various competitive authorities under parts C, D, and E that provide support to the service programs under parts B and H, including systems-change activities, coordinated research and personnel preparation, and coordinated technical assistance, dissemination, technology development, and media services.

DEFINITIONS

Section 102 of the bill makes the following amendments to the definitions in section 602 of the act:

The bill adds definitions of "behavior management plan"; "educational service agency" (to replace "intermediate educational unit"); "disability"; "general education curriculum"; "inappropriately identified"; "individualized family service plan (IFSP)" and "infant or toddler with a disability" (these terms are used in other parts of the act in addition to part H); "outlying areas"; "parent" (to include a legal guardian; because of this change, most references to "guardian" are deleted throughout the act when accompanied by the term "parent"); "supplementary aids and services"; "systems-change activities"; "systems-change outcomes"; "transitional services"; and "unserved and underserved".

The committee retains "social work services" in the definition of "related services." These services include the following as they relate to the child's disability: preparing social or developmental histories on children with disabilities; providing group and individual counseling to children and their families; working with problems in children's living situations (home, school, and community) that affect their adjustment in school; and mobilizing school and community resources to optimize the student's potential to learn in educational programs. As appropriate, school social workers may also design and implement behavior management plans, consult with regular education and special education teachers, and provide case management for students and families requiring multiple services.

The bill retains the definition of "transition services." The committee intends that the list of permissible activities in the definition of transition services be interpreted as illustrative rather than definitive. In defining "transition services," the committee recognized that successful transitional strategies can incorporate a variety of services. Therefore, the list of available services is not exhaustive.

The bill deletes the following definitions: "research and related purposes" (that precise term is not used in IDEA, and the provisions on coordinated research in part D, as added by the bill, describe in sufficient detail the types of research activities that can be carried out under the act); and "public or private nonprofit agency or organization" (that term was used in current law only with respect to participation by Indian tribes and, under certain conditions, the Bureau of Indian Affairs in competitions under IDEA support authorities. The definition is not needed in the act, as revised by the bill, because "an Indian tribe or tribally controlled school funded by the Department of the Interior" is expressly listed in section 610(c) as an eligible applicant for such competitions); "under-represented" (that term is replaced by the terms "inappropriately identified" and "unserved and underserved"); and "youth with a disability" (that term has been used on a limited basis under the competitive grant authorities, for which no statutory definition is required).

The committee clarifies what activities and information are required in individualized education programs. Under current law, substantive provisions of the IEP are located in sections 602(a)(20), 612(4), and 614(a)(5). The bill revises the definition of "individualized education program," by removing all substantive provisions, and referring to sections 614(d)–614(i), where all such provisions, both process and content, are now contained.

The bill makes technical and clarifying amendments to the definition of "local educational agency," and adds a new subparagraph (C), to state that the term also includes an "educational service agency" (which replaces "intermediate educational unit"). This addition makes it possible to delete most of the references to these agencies that accompany references to local educational agencies throughout current law.

The bill also replaces most of the lengthy and unwieldy definition of "institution of higher education" in current law with a simple cross-reference to the definition of that term in the Higher Education Act of 1965. However, the bill retains the language in current law, which clarifies that the term "institution of higher education" includes any community college receiving funding from the Secretary of the Interior under the Tribally Controlled Community College Assistance Act of 1978. The revised definition would not exclude institutions that are covered by the current definition.

The bill amends the definition of "related services," by adding "orientation and mobility services." In addition, the bill alphabetizes, and adds headings to, the terms defined in section 602, and makes technical and conforming changes to certain definitions, including adding a definition for the term "child with a disability." Current law defines only the plural "children with disabilities".

OFFICE OF SPECIAL EDUCATION PROGRAMS

Section 103 of the bill amends section 603 of the act regarding the Office of Special Education Programs (OSEP), the Federal office within the U.S. Department of Education that is responsible for implementation of IDEA. The bill adds a new subsection (c) to authorize the Secretary "to accept voluntary and uncompensated services in furtherance of the purposes of this act."

REQUIREMENTS FOR PRESCRIBING REGULATIONS

Section 104 of the bill amends section 608 of the act (Requirements for Prescribing Regulations) by striking the language in subsection (a) and inserting language to provide that "the Secretary shall provide a public comment period of at least 90 days on any regulation proposed under part B for which a time period for an opportunity for public comment is otherwise required."

ELIGIBILITY FOR FINANCIAL ASSISTANCE

Section 105 of the bill amends section 609 of the act, to provide that the Secretary may not make a grant under parts C through E to a State, or to any local educational agency or other public institution or agency in the State, that relates exclusively to programs, projects, and activities pertaining to children aged 3 through 5, unless a State is eligible to receive a preschool grant under section 619 of the act.

ADMINISTRATIVE PROVISIONS APPLICABLE TO DISCRETIONARY GRANT PROGRAMS

Section 106 of the bill amends section 610 of IDEA regarding administrative provisions pertaining to support programs under IDEA, including programs under the new part C (State Systems Change program), the new part D (Research and Personnel Preparation) and the new part E (Technical Assistance, Support, and Dissemination of Information). The bill reorganizes and substantially revises current section 610, as described below.

The bill requires the Secretary to develop and implement a comprehensive plan for activities under parts D and E in order to enhance the provision of educational, related, and early intervention services to children with disabilities under parts B and H. The plan must be developed with the involvement of consumers and professionals, and be published in the Federal Register for public comment; and, to the extent appropriate, funds under parts D and E must be awarded to carry out activities that directly or indirectly benefit children with disabilities of all ages. This new provision (under subsection (b)) replaces the planning requirements under current section 610(a).

The bill, in a new subsection (c), identifies eligible applicants for awards (State and local educational agencies, other public agencies, institutions of higher education, private nonprofit organizations, outlying areas, Indian tribes, and, in some cases, for-profit organizations), and provides that the Secretary may limit individual competitions to one or more categories of applicants. With respect to personnel preparation awards under section 634, the bill provides that "an eligible entity shall demonstrate the capacity to conduct personnel preparation activities."

Under current law, the Secretary is appropriately given the authority to implement the support program activities specified in the law (in parts C through G) and may not redirect support program dollars to address other priorities. However, the committee finds that to further enhance the provision of educational, related, and early intervention services to children with disabilities under parts B and H, limited fiscal flexibility in addition to that already provided under General Education Provisions Act must be built into support programs in order that the Secretary may, for example, respond in a timely manner to newly identified needs in the field. For example, the issue of student discipline is a recently identified area of concern raised in the field. These concerns have been addressed in the amendments to the law. However, future unanticipated concerns, needs, or priorities will undoubtedly be generated in the field.

The committee intends to give the Secretary limited administrative and fiscal flexibility in the use of support program funds to respond to future unanticipated needs identified in the field. Thus, the bill provides that a portion of funds available under parts D and E (not more than 20 percent) may be targeted on a specific activity or combination of activities developed by the Secretary to address a newly identified need in the field, if the activity or combination of activities developed by the Secretary under parts D and

E is consistent with the purposes of those sections from which the financial resources are drawn.

In a new subsection (d)(2), the bill continues the provisions of current law with respect to institutions of higher education with minority enrollments of at least 25 percent, including historically black colleges and universities and other agencies, by requiring that at least 1 percent of the total amount of funds appropriated under parts D and E be used for providing outreach and technical assistance to such institutions and agencies to promote the participation of all such entities in activities under parts D and E.

In a new subsection (e) (Priorities), the bill requires the Secretary to ensure that any awards made under parts D and E are only for activities that are designed to benefit children with disabilities and their families and the personnel employed to work with such children and their families and other individuals with disabilities. The bill provides that the Secretary may, without rulemaking, limit the grant, contract, or cooperative agreement to, or otherwise give priority to, eligible entities that carry out certain activities.

The bill sets out specific applicant responsibilities in a new subsection (f), including requiring such applicants to involve individuals with disabilities or parents of such individuals in all phases of planning, implementing, and evaluating a project, and to determine the potential of the project for replication and adoption by other entities. The bill establishes additional applicant responsibilities related to sharing the cost of the project, developing materials in formats designed for specific audiences, disseminating such materials, and collaborating with other applicants both in developing the formats and disseminating the information.

In a new subsection (g) (Application Management), the bill requires a peer review process, with detailed criteria for selection of panel members, and permits the Secretary to use funds under parts D and E to pay expenses and fees of non-Federal entities. The bill further provides that the Secretary may not use more than 1 percent of such funds to pay non-Federal entities for administrative support related to application management, and permits the use of such funds by Federal employees to conduct on-site monitoring of projects receiving $500,000 or more for any fiscal year.

REPEALS

Section 107 of the bill repeals section 605 of IDEA (Acquisition of Equipment and Construction of Necessary Facilities). This section is unnecessary because all provisions in the section are appropriately addressed under parts 75, 76, and 80 of the Education Department General Administrative Regulations (EDGAR). The bill also repeals section 607 (Grants for the Removal of Architectural Barriers). This section was enacted in 1975 with a one-time, limited appropriation; since the funds under that appropriation were obligated several years ago, the section is no longer germane. The repeal of these two sections takes effect on the date of enactment of the IDEA 1996 amendments.

TRANSITION RULE

Section 108 of the bill provides that section 610 of current law, as in effect on the day before the date of enactment of the IDEA 1996 amendments, shall apply with respect to administrative activities related to parts C through G of current law for fiscal years 1996 and 1997.

The bill also requires the Secretary to use funds appropriated under IDEA for fiscal year 1997 to carry out such administrative activities as may be necessary, including specified activities described in section 610(d)(2) regarding evaluation of applications for fiscal year 1998 (as amended by section 106 of the 1996 amendments, and parts C, D, and E as amended by titles III, IV, and V of such amendments, to ensure the effective implementation of parts C, D, and E, and section 610(d)(2) by October 1, 1997. Section 108 also provides that neither that section nor section 106 of the bill should be read to permit the Secretary to provide assistance to any person prior to that date to carry out any activity under section 610(d)(2) or parts C, D, and E of the 1996 amendments.

EFFECTIVE DATE

Section 109 of the bill provides that, except as provided in section 107, the amendments made by title I of the bill shall take effect on October 1, 1997.

TITLE II—ASSISTANCE FOR EDUCATION OF ALL CHILDREN WITH DISABILITIES

ENTITLEMENTS AND ALLOCATIONS

Section 201 of the bill amends section 611 of the act (regarding entitlements and allocations to State and local educational agencies under part B of IDEA). Although the "child count" formula is retained by the 1996 amendments, the bill makes other changes to section 611, as described below.

State activities

Section 201(a) of the bill amends section 611(c) of the act to expand the list of activities that a State may carry out if it retains part B funds at the State level (for example: to meet the performance goals established under section 612(a)(16) of the act; to develop and implement the mediation process required by section 615(e) of the act; to supplement other funds used to develop and implement a statewide coordinated services system, but not to exceed 1 percent of the State's allotment under this part; and for other appropriate activities consistent with the purposes of part B.)

It is the committee's intent that States use these funds to ensure the provision of a free appropriate public education and compliance with other requirements of part B. Appropriate activities include but are not limited to: support of low-incidence populations including support for high-cost placements; personnel development including distance learning; parent support services; evaluations regarding acquisition of assistive technology; support of programs in institutions, hospitals, and correctional facilities; support of technical assistance and other services to local educational agencies on a regional basis; and support of services to preschool age children.

Distribution of funds

Section 201(b) of the bill amends the minimum subgrants provision in section 611(d) of the act (which prohibits subgrants to small local educational agencies that would receive less than $7,500 under section 611). The bill eases this restriction by giving States the option to decide whether to make subgrants of less than that amount, and adds preschool funds received under section 619 to the amount that could be counted in determining if a local educational agency meets the $7,500 minimum. However, the committee intends that the local educational agency shall retain the option (under section 613 of the act) to decide whether to merge with another local educational agency for eligibility purposes. The bill retains the provision requiring that, if a State does not make a subgrant to a local educational agency, the State must use those funds to provide a free appropriate public education to children residing in the jurisdiction of that agency.

Outlying areas

Section 201(c) of the bill amends section 611(e) of IDEA (regarding grants to the outlying areas). The bill uses the term "outlying areas" in lieu of "jurisdictions," and defines that term to mean "the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau. The bill explicitly requires the outlying areas to use their part B funds in accordance with the purposes of IDEA, and not for other purposes, as is currently permitted under section 501 of P.L. 95–134.

Department of the Interior

Section 201(d) makes technical and conforming changes to section 611(f) of IDEA (regarding grants to the Secretary of the Interior). The bill also makes other changes with respect to the Department of the Interior, including requiring a description of the activities carried out under the memorandum of agreement between the Secretaries of the Interior and of Health and Human Services; submission of an annual report on the status of activities required under section 611(f)(4) (A) through (F) of the act (in lieu of biennial reports required under current law); and submission of annual reports (in lieu of biennial reports) from tribes or tribal organizations to the Secretary of the Interior.

STATE ELIGIBILITY

Section 202 of the bill establishes a new State eligibility provision that simplifies the requirements in current law related to State participation under part B. The bill combines most of the existing elements contained in sections 612 (State eligibility) and 613 (State plans) of the act, so that all conditions of State eligibility (such as the policies on free appropriate public education, procedural safeguards, and least restrictive environment) appear in one comprehensive section.

Eligibility and child find

The bill amends the "child find" requirements (redesignated as section 612(a)(3)) to codify current Department policy, which provides that so long as a child meets the "two-pronged" test as a "child with a disability" under redesignated section 602(a)(4), i.e., the child has a disability and needs special education, the child need not be classified by a specific disability category in order to be eligible for services under part B.

The committee recognizes that despite the advances that have resulted from the release and implementation of the 1991 Policy Clarification Memorandum on Attention Deficit Disorders (ADD), many parents of children with ADD continue to encounter difficulty obtaining appropriate special education and related services for their children. It is the committee's intent that all children with ADD who are eligible for services under IDEA be fully and properly served.

Least restrictive environment

The bill amends the provisions on least restrictive environment (redesignated as section 612(a)(5)) to ensure that the State's funding formula does not result in placements that violate the requirement that children be placed in the least restrictive environment.

The committee supports the longstanding concept of the least restrictive environment, including the policy that, to the maximum extent appropriate, children with disabilities are educated with children who are nondisabled and that special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability is such that education in regular classes with the use of special education and related services or supplementary aids and services cannot be achieved satisfactorily.

In addition, the committee supports the longstanding policy of a full continuum of alternative placements designed to meet the unique needs of each child with a disability. Placement options available include instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions. For disabled children placed in regular classes, supplementary services such as resource room or itinerant instruction shall also be offered as needed.

In selecting the least restrictive environment, a child's IEP team should consider any potentially harmful or beneficial effects of various placements on the child with a disability in the suggested placement and the quality of services that the child with a disability in the suggested placement would receive. Consideration also should be given to the possible effects of a regular education placement of a child with a disability on the quality of services provided to those students in the classroom who do not have a disability. For example, if a child with a disability has behavioral problems that are so disruptive in a regular classroom that the education of other students is significantly impaired, the needs of the student with a disability cannot be met in that environment. However, before making such a determination, school districts must ensure that consideration has been given to the full range of supplementary aids and services that could be provided to the student or to the teacher in the regular educational environment to accommodate the unique needs of the child with a disability.

The committee intends to make States responsible for monitoring and addressing the problem of racial disproportionality, without dictating how this should be done. States must study data on the representation of children in special education by race to identify districts and schools that may be significantly over-identifying or under-identifying minority children as children with disabilities or improperly placing them in restrictive settings. In districts and schools where disproportionality occurs, States should review and, as appropriate, revise the policies that guide evaluation and placement of children from racial minority backgrounds. The bill amends the provisions on least restrictive environment (new section 612(a)(5)) to ensure that the State educational agency examines data to determine if significant racial disproportionality is occurring in the evaluation and placement of children under this act; and if either situation is identified, to take appropriate corrective action.

Transition from part H to part B

The provision requiring policies and procedures related to a smooth transition from part H to preschool programs under part B (redesignated by the bill as 612(a)(9)) is amended by the bill to conform such requirements to the transition planning requirements under part H (section 678(a)(8)) (i.e., to ensure that local educational agency staff participate in transition planning conferences convened by the part H lead agency, in order to ensure an effective transition for infants and toddlers with disabilities who move into preschool programs under part B).

Private school placements

The bill includes a new provision regarding payment for education of children placed in private schools without consent of or referral by a local educational agency (section 612(a)(10)(C)). First, the bill includes the longstanding policy set out in the Department of Education regulations (34 CFR 300.403(a)) that if an LEA makes available a free appropriate public education to a child with a disability, and the parents choose to place the child in a private school, the LEA is not required to pay for the child's education, including special education and related services. (The bill continues to require that an LEA must make services available to private school children with disabilities in accordance with Section 610(a)(12)(A) and with Department of Education Regulations (34 CFR 300.450–300.452).)

Second, the bill provides that if the parents of a child with a disability who previously received special education and related services from the LEA enroll the child in a private school without the consent of or referral by the LEA, and if, as a result of mediation described in section 615(e) or the result of a decision rendered under the procedural safeguards of section 615, the LEA is determined to have a financial responsibility for the child's enrollment, any reimbursement for such enrollment that the LEA might otherwise be required to make to the parents may be reduced or denied (1) if, 10 business days before removing the child from the public school, the parents did not provide a written statement rejecting the placement proposed by the LEA to provide a free appropriate public education to the child, or (2) upon a judicial finding of unreasonableness with respect to actions taken by the parents.

General supervision

Except for minor wording changes, the bill retains current law regarding the State educational agency's general supervisory responsibility for the education of all children with disabilities (redesignated as section 612(a)(11) of the act). However, with respect to this provision, the committee wishes to include here specific statements with regard to this responsibility from the 1975 Senate report on P.L. 94–142, which reads as follows:

> This provision is included specifically to assure a single line of responsibility with regard to the education of handicapped children, and to assure that in the implementation of all provisions of this act and in carrying out the right to education for handicapped children, the State educational agency shall be the responsible agency. * * *
>
> Without this requirement, there is an abdication of responsibility for the education of handicapped children. Presently in many States, responsibility is divided, depending on the age of the handicapped child, sources of funding, and type of services delivered. While the committee understands that different agencies may, in fact, deliver services, the responsibility must remain in a central agency overseeing the education of handicapped children, so that failure to deliver services or the violation of the rights of handicapped children is squarely the responsibility of one agency (Senate report No. 94–168, page 24 (1975)).

Ensuring services

The bill strengthens the requirements on ensuring provision of services by noneducational agencies (redesignated as section 612(a)(12)), while retaining the single line of responsibility of the State educational agency (described in the preceding paragraphs regarding section 612 (a) (11)).

Over the years, many agencies have read IDEA as requiring school districts to be the sole payor or provider of required services and have gradually decreased their level of effort or support, or stopped altogether providing or paying for such services to children served under IDEA. This has resulted in shifting enormous costs to LEA's to pay for many special education and related services, and has drained resources away from educational services for all students. The committee amendment should also send a clear signal to insurance companies that they should not discriminate against school-aged children with disabilities by refusing to pay for services that they would cover if the child were not a child with a disability covered under IDEA.

The committee amendment leaves intact the language in current law that mandates that States must ensure that children with disabilities are provided with various special education and related services. The amendment also encourages that these services continue to be provided at the school site whenever possible.

However, the committee amendment more clearly authorizes schools to seek reimbursement for such services from public agencies other than an educational agency (such as health, labor, or rehabilitation agencies and programs such as title V of the Social Security Act and Medicaid) and insurance companies that are obligated under their own policies for providing or paying for such services.

The amendment also clarifies Congressional intent that, in specified circumstances, the financial responsibility of noneducational agencies shall precede the responsibility of LEA's. At the same time, the committee reaffirms original congressional intent that services necessary for children with disabilities to be provided a free appropriate public education may in no way be delayed, and the State educational agency remains ultimately responsible for the provision of a free appropriate public education under section 611(a)(11).

Specifically, the bill provides that the chief executive officer of each State (or the officer's designee) shall ensure that an interagency agreement or other mechanism for interagency coordination is in effect between each noneducational agency that is otherwise obligated to provide or pay for certain services described in section 612(a)(12)(B)(i) that are needed for a free appropriate public education and the appropriate educational agency in the State, in order to ensure that all such services are provided (including the timely provision of services during the pendency of any dispute between the respective agencies).

Under section 612(a)(12)(A)(i), each interagency agreement or mechanism must include an identification of, or method for defining, the financial responsibility of each agency for providing all services described in section 612(a)(12)(B)(i) to ensure a free appropriate public education to children with disabilities. The services described in section 612(a)(12)(B)(i) include, but are not limited to, assistive technology devices and services, related services, supplementary aids and services, and transition services. (Definitions of these devices and services are included in the revised section 602).

The bill clarifies that the financial responsibility of each public agency described in subparagraph (B), including the State Medicaid agency, and other public or private insurers of children with disabilities (provided that the filing of claims is voluntary on the part of parents) shall precede the financial responsibility of the LEA.

The bill further provides (under subparagraphs (A) (ii)–(iv)) that each agreement or mechanism also must include: (1) conditions, terms, and procedures under which an LEA shall be reimbursed by other agencies; (2) procedures for resolving interagency disputes to secure reimbursement from other agencies or otherwise implement the provisions of the agreement or mechanism; and (3) policies and procedures to promote the coordination and timely delivery of services.

Subparagraph (B)(i) provides that if any noneducational public agency is otherwise obligated under Federal or State law, or assigned responsibility under State policy, to provide or pay for services that are also considered special education or related services that are necessary for ensuring a free appropriate public education to children with disabilities within the State, that agency shall fulfill its obligation either directly or though contract or other arrangement.

Subparagraph (B)(ii) provides that in a case in which a public agency other than an educational agency fails to fulfill the agency's financial responsibility described in subparagraph (A)(i) to provide or pay for the special education or related services described in clause (i) for children with disabilities and the LEA provides or pays for such services to such children, the LEA may claim reimbursement from such public agency for such services. Such public agency shall reimburse the LEA pursuant to the terms of the interagency agreement in effect under subparagraph (A)(i) according to procedures established in such agreement pursuant to subparagraph (A)(ii).

Subparagraph (C) provides that a State may meet the requirements of subparagraph (A) through State statute or regulation, signed agreements between respective agency officials, or other appropriate methods as determined by the chief executive officer or designee of the officer.

The provisions in section 611(a)(12) related to local educational agencies also apply to any State agency that is eligible under current section 614A of this act and is responsible for developing a child's IEP.

Comprehensive system of personnel development

The committee's intent is both to streamline and improve the provisions of the "comprehensive system of personnel development." The bill amends the provision related to the comprehensive system of personnel development (redesignated as section 612(a)(14)) to simplify and reduce the burden of such requirements, especially the data provisions, and to make the requirements more meaningful. The committee intends to improve the operations and results of the comprehensive system of personnel development by insuring that all personnel necessary to carry out this part are appropriately and adequately prepared and trained, and that the comprehensive system of personnel development includes a system for the continuing education of regular and special education and related services personnel; procedures for acquiring and disseminating to teachers, administrators, and related services personnel significant knowledge derived from educational research and other sources; and procedures for adopting, where appropriate, promising practices, materials, and research.

Personnel standards

With the exception of new language on paraprofessionals, the committee does not alter current law concerning personnel standards but recognizes that there has been confusion surrounding this section. When the provision was enacted, Congress intended that within a general occupational category (e.g., psychology or nursing), there may be different professional subcategories with different personnel standards in a State, provided that there are identifiable differences in the scope of responsibility and degree of supervision among the subcategories. For example, a school psychologist is recognized as a unique profession within the field of psychology. Within this provision of law, States may find a unique profession within an occupational category qualified to provide certain special education or related services to children with disabilities.

The committee intends that States be able to establish specific certification, licensure, or registration requirements for professional subcategories of an occupational category and establish a "highest standard" for each subcategory. For instance, a State may establish different standards for the psychology subcategories of clinical psychologists and school psychologists. Thus, any school that needs to hire a psychologist could hire a school psychologist who may not be required to meet the same standards as those set for clinical psychologists as long as the school psychologist is not providing those clinical psychological services that the children may need.

State educational agencies may determine that a specific subcategory of a professional category may be qualified to provide certain special education or related services to children with disabilities. For example, a State educational agency may determine that licensed practical nurses (LPN's) rather than registered nurses possess all the skills necessary to perform the nursing duties normally needed in the schools. As long as a State educational agency establishes standards for the hiring of LPN's in schools that are as high as the State-approved or recognized requirements for LPN's generally, it would be complying with this provision.

The requirements on "personnel standards" (redesignated by the bill as section 612(a)(15)) are revised to include the use of paraprofessionals. The committee supports the practice of local educational agencies utilizing appropriately trained and supervised paraprofessionals to provide services, provided that paraprofessionals are trained and supervised by qualified personnel in accordance with State law, regulations, or written policy.

The bill includes language to make it clear that the use of paraprofessionals and certified assistants is compatible with providing high-quality special education and related services if it is done in a manner consistent with State law, regulation, or other written policy. For instance, certified occupational therapy assistants are trained at a technical level (usually 2 years) in the provision of occupational therapy services and they are licensed by most States. While they must be supervised by occupational therapists, these assistants can provide services and perform functions which can facilitate a child's achievement of educational goals. The committee emphasizes in the bill that State law, regulation and policy must be followed in the use of these staff.

The committee also supports the practice of State educational agencies exercising discretion to "grandfather-in" personnel currently in the field who do not meet the highest requirements in the State applicable to a specific profession or discipline, but who have significant experience and have demonstrated sufficient competence in the area in which such personnel are providing special education or related services to warrant their continued certification, licensing, registration, or other comparable requirements. However, such a policy may in no way diminish the State's obligation to carry out measures to require the retraining or hiring of personnel to meet appropriate professional requirements in the State.

Linkage with general education initiatives

States are currently determining how to apply appropriate content standards and indicators of student achievement to the education of children with disabilities. Many States have begun to examine quality indicators, such as graduation, drop-out, and attendance rates for children with disabilities as a part of their compliance monitoring. The committee supports linking IDEA with general education initiatives. The bill adds two new provisions to the act that are designed to conform IDEA to general education initiatives (designated as sections 612(a) (16) and (17)). One of the provisions requires States to establish performance goals and indicators for children with disabilities. The second provision requires States to ensure that these children participate in statewide and districtwide assessments, with appropriate accommodations, where necessary and that guidelines are developed for participation in alternative assessments for those children who cannot participate in general statewide and districtwide assessments.

With respect to statewide and districtwide assessments, the committee finds that, when schools are required to assess children with disabilities and report on the results, schools are more likely to focus on improving results for children with disabilities. The committee intends that all children with disabilities are included in assessments of student progress. However, the committee recognizes that some children may require appropriate accommodations to participate in statewide and districtwide assessments. For example, if it is known that a child with a disability in sixth grade reads at approximately the third grade level, an appropriate accommodation would include administering a third grade level reading test. When assessing the same child's knowledge in content areas, such as social studies or science, an appropriate accommodation would include reading the sixth grade level test items to the child.

In addition, a small number of children with severe cognitive disabilities cannot appropriately be included in general statewide and districtwide assessments, even with appropriate accommodations. The bill makes provision for the State educational agency or local educational agency, as appropriate, to develop guidelines for the participation of children with disabilities in alternate assessments for such children who cannot participate in the general statewide and districtwide assessment programs. For example, a school district may choose to use portfolios of progress that include work samples, observations of improvements in social and self-help skills, and other indices of a child's progress, when a child has limited or customized exposure to the general education curriculum because of a disability.

Use of funds; public participation

The committee intends to clarify and streamline the use-of-funds requirements under current law. The bill consolidates use-of-funds requirements under current law in one place (section 612(a)(18)) and deletes provisions which are not germane. The bill also consolidates the public participation requirements of current law in one place (section 612(a)(19)), and provides language to reduce burden—by clarifying that, if a State's policies and procedures have been subjected to public comment through a State rulemaking process, no further public review or public comment period is required.

State advisory panels

The bill amends the provisions on State advisory panels (redesignated as section 612(a)(20)) by specifying other categories of participants on such panels (e.g., representatives of other State agencies involved in the financing or delivery of related services; at least one representative of a vocational, community, or business organization concerned with the provision of transition services to children with disabilities in secondary schools; and any other individual, as determined by the State educational agency). The bill also gives the panel additional duties, including requiring the panel to advise the State educational agency with respect to developing corrective action plans to address findings identified through Federal monitoring reports, and to advise the State educational agency in the development and implementation of policies related to coordination of services for children with disabilities. Finally, the bill further provides that a State panel established under the Elementary and Secondary Education Act or the Goals 2000: Educate America Act may also serve as the State advisory panel if it meets the requirements of this part.

State plans

The bill significantly reduces paperwork and staff burden, by no longer requiring States to submit 3 year State plans. Once a State demonstrates that it has in effect policies and procedures that meet the eligibility requirements of the new section 612, the State does not have to resubmit such materials, unless those policies and procedures are changed.

LOCAL EDUCATIONAL AGENCY AND STATE AGENCY ELIGIBILITY

Section 203 of the bill also reduces paperwork for, and simplifies the provisions related to, participation of local educational agencies under part B, by replacing the local application requirements in section 614 of current law with new local eligibility provisions in section 613, and by conforming those provisions, as appropriate, to the new State eligibility requirements under section 612.

Maintenance of effort

With respect to fiscal responsibilities, the bill includes a "maintenance of effort" provision to ensure that the level of expenditures for the education of children with disabilities within each local educational agency (from State and local funds) will not drop below the level of such expenditures for the preceding fiscal year. However, the committee acknowledges that there are times when appropriate exceptions to this rule must be made. Thus, the bill provides four specific exceptions, including: (1) retirement or other voluntary departure of special education staff who are at or near the top of the salary schedule; (2) decreases in enrollment of children with disabilities; (3) end of an agency's responsibility to provide an exceptionally costly program to a child with a disability (because the child has left the agency's jurisdiction, no longer requires such a program, or has aged-out with respect to the agency's responsibility); and (4) the end of unusually large expenditures for equipment or construction. The bill retains the "excess costs" and "supplement—not supplant" provisions of current law.

Flexible use of funds

The committee bill provides greater flexibility to local educational agencies in the use of part B funds (section 613(a)(4)), while still ensuring that children with disabilities receive needed special education and related services. The bill identifies specific activities that such a local educational agency may carry out with its part B funds (notwithstanding the excess cost and non-commingling requirements in sections 613(a)(3)(B) and 612(a)(18)(A)(ii)), as described in the following paragraphs.

The bill includes an "incidental benefits" provision that permits local educational agencies to provide special education services to a child with a disability in the regular classroom without having to track the costs of benefits to nondisabled students from those services. For example, if a special education or related services provider delivers such services to a child with a disability in a regular education setting, other children may benefit from those services provided that children with disabilities continue to receive a free appropriate public education.

The bill also allows special education and related services that are provided to "IDEA-eligible" children to be simultaneously provided, on a space available basis, to children who are protected by the Americans with Disabilities Act of 1990 (ADA) and section 504 of the Rehabilitation Act of 1973. For example, if a school psychologist is providing social skills training to a group of children with disabilities and there is room for two more children, two children covered under the ADA and section 504 could participate.

Many children served under IDEA also receive services from other social service agencies. However, these services are often duplicative and delivered in fragmented and inefficient ways. For example, social service agencies often provide social work services to children who qualify for various Federal and State programs. These services can include the preparation of social or developmental histories on the child, functional or adaptive assessments, counseling, and casework services. Schools also typically provide these services—often as standard practice for eligibility determination under IDEA. Yet it is not uncommon for social workers from different agencies to work with one child with a disability at the same time. To reduce this duplication, the bill allows local educational agencies to use up to 5 percent of their part B funds to develop and implement a coordinated services system that links education, health, and social welfare services, and various systems and entities in a manner designed to improve educational and transitional results for all children and their families, including children with disabilities and their families. The committee believes that the combination of coordinated service system provisions at the State and local levels, coupled with the amendments to section 612 concerning methods of ensuring services (including the provision requiring the State to establish interagency coordinating responsibilities among the various public agencies), will significantly decrease duplication and fragmentation, increase the efficiency and effectiveness of service delivery models and improve the results for children with disabilities and their families.

Finally, the bill provides that each local educational agency (if authorized by the State educational agency) may use funds available under part B to design, implement, and evaluate a school-based improvement plan for improving educational and transitional services and results for all children with disabilities and, as appropriate, for other children, consistent with the provisions on incidental benefits and simultaneous services in section 613(a)(4) (A) and (B). This plan must be developed in collaboration with parents of children with disabilities, teachers, administrators, and related services providers. The committee supports the integration (at the local educational agency's discretion) of school-based improvement plans with school-wide projects under title I of the Elementary and Secondary Education Act of 1965, the Improving America's Schools Act or other appropriate Federal, State, and local initiatives. However, the committee intends that all provisions of the school-based improvement plan must be implemented as part of any integrated school-based initiative in order for part B funds to be used for such purposes.

Joint eligibility

The bill amends current law related to consolidated applications by providing that a local educational agency may join with another local educational agency to jointly establish eligibility under part B if the agency is too small to qualify for a $7,500 minimum grant under section 611(d) or would not be able to provide programs of sufficient size and scope effectively to meet the needs of children with disabilities. Under current law, local educational agencies have no role in making such decisions; the State educational agency has the sole authority to determine whether such agencies should submit consolidated applications.

Local educational agency plans

The bill significantly reduces paperwork and staff burden for State and local educational agencies by providing that, once a local educational agency demonstrates to the satisfaction of the State educational agency that it has in effect policies and procedures that meet the eligibility requirements of the new section 613, the State agency may consider that those requirements have been met; and the local educational agency would not have to resubmit additional materials, unless those policies and procedures are changed.

Other state agencies

The bill adds specific provisions in section 613 related to the eligibility of State agencies for assistance under current section 614A. Under these provisions, any State agency that desires to receive a subgrant under part B shall demonstrate to the satisfaction of the State educational agency that all eligible children who are participating in programs and projects funded under part B and their parents are provided all rights and procedural safeguards described in IDEA, as amended by the 1996 amendments, and the State agency meets other conditions of section 613 that the Secretary finds appropriate. (Section 614A is repealed by the bill.)

EVALUATIONS, REEVALUATIONS, IEP'S AND EDUCATIONAL PLACEMENTS

Section 204 of the bill creates a new section 614 of IDEA that brings together in one place all interrelated matters regarding the evaluation and reevaluation of children with disabilities and the development, review and revision of individualized education programs (IEP's) for these children. Much of this material is scattered throughout current law or is inappropriately placed in definitions. The consolidation of the material in one place and amending these provisions to reduce the burden and make the requirements more understandable should facilitate State and local implementation of these provisions.

Initial evaluations and reevaluations

The provisions on evaluation in section 614(a) codify in the act the requirement that an initial comprehensive evaluation must be conducted before the provision of special education and related services and that the purpose of the evaluation is to determine whether a child is a child with a disability, as defined in section 602(a)(4), and to determine the child's specific educational needs. The committee recognizes that such a comprehensive evaluation should include information on cognitive, emotional, social and behavioral factors in addition to physical or developmental factors, if necessary, to establish that a child is eligible for special education and related services. Reevaluations are to be conducted at critical natural transition points during the child's education, such as the child's movement from elementary grades to middle or junior high school grades (except that for a transition that will not occur for a period of 5 years or more, the natural transition point shall be at least every 3 years), or when the child exits high school and enters post-school activities.

The process of evaluating and reevaluating children with disabilities is simplified by the bill, and the committee's amendments are designed to reduce cost and administrative burden. Section 614(c) of the act requires that existing evaluation data on a child be reviewed to determine if any other data are needed to make decisions about a child's eligibility and services. If it is determined by appropriate individuals that additional data are not needed, the parents must be so informed of that fact and of their right to still request an evaluation, but no further evaluations are required at that time unless requested by the parents.

Information from related services providers must be considered when appropriate, in order to support the development of an effective IEP and subsequent program placement of children with disabilties.

Section 614(a)(1)(C) establishes procedures that the local educational agency may follow when a parent refuses to consent for an initial evaluation of a child to determine whether the child qualifies for services under IDEA. If a parent refuses such consent, this section allows (but does not require) a local education agency to pursue (through the use of mediation and due process procedures) permission to conduct an evaluation.

The amendments in section 614(b) are designed to link evaluation procedures and instructional programming. The amendments include provisions requiring local educational agencies to ensure that tests and other evaluation materials are relevant to instructional planning, and are consistent with generally accepted professional standards for assessments. It is the committee's intent that all tests given to children must be linked to the general education curriculum to which the child is exposed and that each test must provide information that directly assists in the process of instructional programming. In the rare case where a child with a disability is not exposed to the general education curriculum, only tests that directly assist in instructional programming for the child need be administered. For example, if a child's IEP team determines that a child is not to be exposed to the general education curriculum, the child's instructional programming may focus only on independent living skills, social skills, or self-help skills. Therefore, only tests that directly assist in designing that program are to be administered.

Individualized education programs (IEP's)

The committee amendments to current law more clearly define IEP requirements, and link professional expertise and assessment information with educational programming and results for children with disabilities. The bill consolidates all substantive provisions on IEP content and process in one place (sections 614(d)–614(i)) and puts the provisions in a logical sequence as follows: procedures for developing IEP's; IEP content; measuring and reporting on each child's progress; and reviewing and revising the IEP.

Section 614(d) provides that IEP team members have certain information and knowledge about the child, including that related to instructional implications of evaluation and assessment results, and, as appropriate, information about the regular education environment. The committee intends that a regular education teacher be a member of the IEP team when a child with a disability will be participating in the regular education classroom for a significant amount of time. In addition, the committee does not intend to add unnecessarily to the demands on teachers. Thus, the regular education teacher need only participate in the IEP meeting to the extent relevant to his or her involvement in the education of the child.

The bill requires the child's IEP team to consider basic factors in developing each child's IEP, including the most recent evaluation results on the child, the child's strengths, and parent concerns for enhancing the child's education. The bill also provides that, in the case of a child whose behavior impedes the learning of the child or others, the IEP team, as appropriate, shall consider strategies, including behavior management plans, to address that behavior. The committee recognizes that addressing students' behavioral problems often requires a multifaceted approach. Psychological services are effective techniques for identifying underlying problems and ascertaining appropriate interventions.

Furthermore, the committee is concerned that, in the past, other unique needs of some children with disabilities have not been adequately considered in their IEP's. For example, the committee believes that it is important that State and local educational agencies, in developing IEP's for children who are deaf or hard of hearing, consider factors such as: language and communication needs; opportunities for direct communications with peers and professional personnel in the child's language and communication mode; academic level; and social, emotional and cultural needs, including opportunities for direct instruction in the child's language and communication mode.

The committee believes that, in the case of a child with limited English proficiency, it is important to consider the language needs of the child as the needs relate to the child's IEP. In the case of a child who is blind or visually impaired, the IEP team should consider whether the child needs instruction in braille or in the use of braille. In the case of a child with expressive or receptive language deficits, the IEP team should consider techniques to ensure that the child understands what is being spoken. In the case of a child with sensory or motor communication, or physical impairment, the IEP team should consider the provision of assistive technology devices and services.

The provisions on "Content of IEP's" in redesignated section 614(e) have been revised to make the IEP a more useful document that places greater emphasis on educational results for children with disabilities and on ensuring that each eligible child, as appropriate, has the opportunity to progress in the general education curriculum and to participate with nondisabled children in various settings. For example, under "present levels of educational performance," each child's IEP will describe how the child's disability affects the progress of the child in the general education curriculum (or, for a preschool child, in developmentally appropriate activities related to transition to kindergarten and elementary school).

In addition, consistent with its intent to place greater emphasis on educational results for children with disabilities, the bill includes a provision requiring a statement of any modifications in the administration of State or districtwide assessments that are needed in order for each eligible child to participate in such assessments (or, if participation is not appropriate, a statement of how the child will be assessed).

The bill replaces "annual goals, including short-term instructional objectives" with "measurable annual objectives" related to meeting each of a child's educational needs that result from the child's disability, including objectives related to enabling the child to progress in the general education curriculum at the educationally appropriate level for the child. The bill also provides for a statement of how the progress of the child toward measurable annual objectives will be measured through benchmarks or other measurable indicators of progress, and how the parents will be regularly informed on the child's progress.

Nothing in this act should be construed to prohibit a local educational agency from continuing to use short-term instructional objectives if the agency determines that such objectives are useful as benchmarks or other measurable indicators of a child's progress. The committee intends that benchmarks or other measurable indicators of progress shall be individualized for each child and include observable performance criteria, conditions under which the performance is to occur, and criteria for mastery or attainment (including target dates for attainment). The committee also intends that the child's IEP team revise the IEP, as appropriate, to address: (1) continued progress or lack of expected progress toward achieving the annual measurable objectives and in the general education curriculum, where appropriate; (2) the results of any reevaluation conducted; (3) information about the child's progress provided to the parents; (4) the anticipated educational needs of the child; or (5) other matters, as appropriate.

Additional IEP requirements

The committee finds that for secondary school students with disabilities, a child's transition needs often go unmet. Transition planning for children with disabilities is often a fragmented process that leads to poor services and results for children with disabilities. This is, in part, because transition planning is typically pursued as a separate activity. In many cases, a student's IEP and transition plan are developed in separate meetings by different specialists. Thus, a student's transition plan is often attached to the student's IEP as an addendum, rather than being incorporated and integrated as part of the student's individualized education program.

The bill amends the provisions on transition services (section 614(e)(2)) by requiring that the transition services needs be considered for all students with disabilities beginning at the age of 14 (or younger, if determined appropriate by a student's IEP team). The bill further provides that, as appropriate, the transition services needs of each student shall be addressed under the applicable components of the IEP (for example, under the statements of the student's present level of educational performance, annual measurable objectives, and special education and related services), and that those needs be considered in light of the student's participation in the general curriculum (such as participation in a vocational education or school-to-work program). The committee's intent is that each student's transition plan be fully integrated into the IEP. The bill retains current law requiring a statement of transition services the student will receive beginning no later than age 16.

The bill adds a provision regarding transfer of rights at the age of majority from the parents to the child (section 614(e)(2)(D)), which requires that, at least one year before a student reaches the age of majority under State law, the IEP must include "a statement about the rights under this act, if any, that will transfer to the student on reaching the age of majority." (See also "Procedural Safeguards" below.)

IEP content and paperwork

The bill simplifies the content of the IEP and eases the burden on a child's IEP team in developing the written statement for each child—by adding a statement (section 614(i)) to clarify that "Nothing in this section shall be construed to require the IEP team to include information under one component of a child's IEP that is already contained under another component of such IEP." In addition, the committee intends that for some children with disabilities, the IEP will only address a very limited part of their education. For example, for a child with a speech impairment, the IEP would generally be limited to the child's speech impairment. An IEP for a child with physical disabilities with no mental or emotional disability might consist only of specially designed physical education. However, if the child also has a mental or emotional disability, the IEP might cover most of the child's education.

Placements

The bill includes a new provision (section 614(j)) requiring each local educational agency to ensure that the parents of each child with a disability are members of any group that makes decisions on the educational placement of their child. This provision will enable parents to participate in important decisions about the extent to which their child can be appropriately educated with nondisabled children, and should help to reduce the need for due process hearings to resolve disputes about placement decisions.

Procedural safeguards

Section 206 of the bill makes several changes (both technical and substantive) to section 615 of IDEA. (Section 615 affords certain procedural rights and protections to children with disabilities and their parents under part B of the act.)

Notice and mediation

The bill revises the written notice provision to set out the specific content of notices to parents, and to reduce burden under current law and regulations. Specifically, the bill permits notices to include only a brief summary of the procedural safeguards under sections 615 and 615A relating to due process hearings (and appeals, if applicable), civil actions, and attorneys' fees, and of section 612(a)(10)(C) relating to reimbursement of parents for unilateral placement of children in private schools at public expense—together with a statement that a full explanation of such safeguards will be provided if the parents request it or request a due process hearing.

The bill includes a provision that provides for clearer notice and an early alert of the existence of a conflict between an LEA and the parents of a child with disabilities (section 615(d) of the act, as amended). This provision requires the parents to provide the LEA a written notice of their intent to file a complaint (request a due process hearing) under part B, on any matter regarding the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education to the child, 10 business days prior to filing the complaint, if the parents: (1) have new information about any matter described above; or (2) are initiating a complaint about such a matter, and have signed the most recent IEP of the child that is currently being implemented. The committee believes that the new notice provision will provide an additional opportunity for the parents and the agency to resolve a complaint outside due process proceedings or the courts.

With respect to the written notice by the parents, the bill further states that if, prior to filing the complaint, the parents have new information on any matter described in the preceding paragraph, they must provide the information to the LEA along with the notice of intent to file a complaint.

In addition, the bill provides that if the parents were duly informed by the LEA of their obligation to file such a notice, and fail to do so, "a court, in its discretion, may reduce an award of attorneys' fees and a reimbursement of related costs if within 10 business days after filing a request for an administrative due process hearing under section 615(f), the matter is resolved in a manner that is satisfactory to all parties."

The bill reduces potential conflict between local educational agencies and parents of children with disabilities by requiring States to make mediation available to such parents, on a voluntary basis. The committee believes that the use of mediation can resolve disputes quickly and effectively, and at less cost.

Attorneys' fees

The bill amends provisions on attorneys' fees—by making technical and conforming changes, and by clarifying that the amount of any award of attorneys' fees to a prevailing party shall be determined in accordance with the law established by the Supreme Court in *Hensley* v. *Eckerhart,* 461 U.S. 424 (1983).

The bill also adds a provision to clarify that, "for the purpose of this section, an IEP meeting shall not, in and of itself, be deemed to be a proceeding triggering the awarding of attorneys' fees." The committee intends that attorneys' fees may not be awarded and related costs may not be reimbursed for services performed during preparation for, or participation in, IEP meetings under section 614, or for any other services, unless a request for an administrative due process hearing under section 615(f) or a complaint in a court of competent jurisdiction has been filed, and (1) such services are reasonably related to the preparatory work attendant upon bringing an administrative hearing or court action, including but not limited to attorney-client interviews, investigation of the facts of the case, research on the viability of potential legal claims, and development of theories of the case; (2) such award and reimbursement is required by the terms of a settlement agreement or consent decree voluntarily entered into by both parties; or (3) the IEP meeting is in response to an order of a hearing officer or a court.

Transfer of rights

The bill includes a provision that permits the transfer of parental rights to a student with disabilities upon reaching the age of majority under State law. This provision would accommodate those States that now provide for a transfer of those rights when children with disabilities reach the age of majority, while deferring to State law on the competency of individuals to make educational decisions for themselves. The bill clarifies that, if (under State law) such a student is determined to not have the ability to provide informed consent under part B, the State must have procedures for appointing the parent or another person to represent the student's interests throughout the student's eligibility under this part.

This provision relates only to IDEA and does not require, as a matter of Federal law, that any particular procedures be in place, or that parents use State guardianship procedures in order to retain any rights that would otherwise transfer to the child.

ALTERNATE PROCEDURAL SAFEGUARDS

Alternate procedural safeguards

By adding a new section 615A to IDEA, the committee has attempted to strike a careful balance between the LEA's duty to ensure that school environments are safe and conducive to learning for all children, including children with disabilities, and the LEA's continuing obligation to ensure that children with disabilities receive a free appropriate public education (FAPE). Section 615A also ensures that children with disabilities are not singled out for behaviors related to their disabilities, and are not removed from school placements based on inadequate and inappropriate programming and services, or misunderstandings and misperceptions rooted in ignorance and fear.

Through this amendment, the committee has specifically provided that school authorities may, in certain circumstances, remove from their current educational placement children with disabilities who are in possession of dangerous weapons or illegal drugs, or engage in behavior that results in, or is substantially likely to result in serious bodily injury, or who are so seriously disruptive of the educational environment as to impair significantly their ability to learn, their classmates' ability to learn, and the teacher's ability to teach. However, the committee has taken care to ensure that such action can occur only if not inconsistent with specified procedural safeguards.

Short-term and long-term disciplinary actions

In general, section 615A, which is entitled "Alternate Procedural Safeguards," replaces the Jeffords amendment; identifies additional limited exceptions to section 615(e)(3); the so-called "stay-put" provision; and sets forth the applicable procedural requirements that must be followed by school authorities and the safeguards for children with disabilities who fall within the limited exceptions. Significantly, however, subsections (a) and (b) of this new section 615A are placed in this section not as exceptions to section 615(e)(3) but solely because the committee has elected for clarity to set forth in one section the full range of disciplinary measures or exclusion options that may be utilized by school authorities dealing with children with disabilities who are involved in dangerous or seriously disruptive behavior. The committee chooses to specify in these subsections the disciplinary options available to school officials under IDEA and as interpreted by the Supreme Court in *Honig* v. *Doe* to clarify an area that has become highly problematic because of misunderstandings by school officials, parents, and advocates.

Subsection (a), which addresses "Short-Term Disciplinary Actions," authorizes an LEA, in certain circumstances, to use such measures as in-school suspensions, detentions, timeouts, increased supervision, and restriction of privileges or extracurricular activities, or to otherwise to alter a child's placement (provided that any disciplinary measure that is inconsistent with the child's IEP last for no more than ten [10] business days), or suspend the child for no more than ten [10] days. This subsection is intended to reflect current law regarding the provision of a free appropriate public education and disciplinary options available to schools with regard to short-term disciplinary actions.

Subsection (b)(1) identifies the limited circumstances in which a child's behavior may result in the child being placed in an interim alternative educational placement, outside the normal change-of-placement procedures and regardless of whether the behavior is a manifestation of the child's disability, including behavior involving the possession or use of dangerous weapons or illegal drugs, behavior that results in or is substantially likely to result in serious bodily injury, or behavior that is ongoing, serious, and disruptive.

Barring these categories of behavior, no child with a disability can be subject to long-term disciplinary measures in excess of ten [10] business days unless it has been found that the child's behavior was not a manifestation of the child's disability, that the school rules or code of conduct apply to children without disabilities who engage in the same behavior, and that such disciplinary measures are consistent with section 615(b). Children with disabilities must continue to be provided educational services consistent with the provision of a free appropriate public education except when a child has been found to be involved with a dangerous weapon or illegal drugs, and the behavior is not a manifestation of the child's disability, and the cessation of educational services is the policy applied to students without disabilities who possess weapons or drugs.

The manifestation determination as set forth at subsection (b)(3) must be made by the child's IEP team. The determination as to whether particular conduct is a manifestation of disability is exceedingly complex and difficult. The committee, therefore, recognizes the need to mitigate the risks involved in this determination by identifying a number of factors that must be considered in making a manifestation determination. When considering whether the child's disability impaired the child's ability to understand the impact and consequences of the behavior, or to control the behavior at issue, the child's IEP team is required to consider relevant information pertinent to the behavior at issue, including the context in which it occurred, evaluation and diagnostic results, and the appropriateness of the child's IEP and placement. In addition, the IEP team must consider the extent to which the IEP has been implemented and includes provision of special education and related services, the use of supplementary aids and services, strategies and interventions, and behavior management techniques.

Parents who disagree with the child's IEP team's manifestation determination may seek an expedited due process hearing under section 615(f). During the pendency of any such action or proceeding under subsections (f), (g), or (i), the child shall continue to receive a free appropriate public education.

Conditions that apply when dangerous weapons, drugs, or serious bodily injury are involved

Subsection (c) provides that a child with a disability who, on school premises or at a school-sponsored event under the jurisdiction of the LEA, has a dangerous weapon in his or her possession, engages in the illegal use, possession or distribution of drugs, or engages in behavior that results in or is substantially likely to result in serious bodily injury, may be placed in an interim alternative educational setting. Regardless of whether the behavior is a manifestation of the child's disability, the child's placement may be changed without parental consent provided that certain preconditions are met. First, the principal, after consulting with other individuals knowledgeable about the incident and the nature of the child's disability (specifically the chairperson of the child's IEP team and the director of special education or designee), must determine, in writing, that the child engaged in the particular behavior and that the code of conduct applicable to students without disabilities should apply to the child with a disability. Second, the IEP team must assess the child's needs and identify modifications in the child's IEP consistent with a free appropriate public education, which may include placement of the child in an interim alternative educational setting. In determining the appropriate placement, the IEP team must consider specified information, and must include an individual (who may be an existing member of the child's IEP team) who is qualified to assess the relationship between the disability of the child, the behavior of the child, and the context in which the behavior occurred.

The principal shall make a determination as soon as possible, and in no case more than ten [10] business days after the behavior at issue became known to the principal. A preliminary placement decision should be made by the IEP team within the same ten [10] school day period and in no case shall the placement decision be made more than twenty [20] business days after the principal learned of the behavior. Failure to meet such timelines will result in the child being returned to the placement described in his or her IEP, unless the parents of the child and the LEA agree otherwise.

If the parents disagree with either a determination by the child's IEP team to place a child (who is allegedly involved with dangerous weapons, illegal drugs, or engaging in behavior that results in, or is substantially likely to result in, serious bodily injury) in an interim alternative educational setting, or with the child's IEP team's recommendations for providing a free appropriate public education, the parents may request an expedited due process hearing under subsection 615(f). During the pendency of any such actions or proceedings under subsections (f), (g), or (i), the child must remain in the interim alternative educational setting unless the parents and the State or local educational agency otherwise agree. Within thirty-five [35] business days of the child's placement in the interim setting, the child's IEP team must reconvene to review the child's progress in the placement, determine an appropriate educational placement based on a revised IEP, if appropriate, and secure an appropriate educational placement for the remainder of the school year or the beginning of the next school year, whichever is appropriate.

Conditions applicable when ongoing serious disruptive behavior is involved

Subsection (d) of new section 615A addresses the limited circumstances in which a child with a disability who engages in ongoing serious disruptive behavior may be removed to an interim alternative educational setting without the parents' consent. In order to remove the child to an interim alternative educational setting, the principal, with knowledgeable persons, including the chairperson of the child's IEP team, must determine in writing that a child's continued presence in his or her current educational placement will significantly impair the education of the child or the child's classmates and the ability of the teacher to teach, and the child's IEP team develops a placement in an interim alternative educational setting consistent with the provision of a free appropriate public education. If the child was subjected to short-term disciplinary measures of up to ten [10] business days, this action must occur within the same ten [10] business days. Unless the parents and the LEA otherwise agree, a failure to meet such time frame will result in the child returning to his or her current educational placement described in the IEP.

The bill specifies that a child shall not be determined to be seriously disruptive on the basis of unreasonable considerations, such as: (1) myths or stereotypes about disability; (2) a lack of understanding of the nature of the disability or the effect of the disability on behavior; (3) a disruption caused by devices, accommodations, auxiliary aids or services used by a child with a disability; or (4) behavior that has not been addressed by special education and related services as provided by subsection (d)(3)(B). Regarding the fourth provision, the language is intended to ensure that children are not considered seriously disruptive because of behavior which a school district has not attempted to ameliorate through proper evaluation and assessment, behavior intervention, or supplementary aids and services. This does not mean that the school district will be successful in each instance.

Furthermore, the committee intends that a child shall not be determined to be seriously disruptive on the basis of unreasonable considerations such as learning needs identified in the IEP or behavior that will not be affected by a change in educational setting.

Subsection (d)(3) sets forth several additional conditions that must be met to remove a child from his or her current educational placement to an interim alternative educational setting. Under subsection (d)(3)(A), the principal and the child's IEP team (and hearing officer, if on appeal) must first ascertain that there is a cumulative record, over an extended period of time, of frequent behaviors, documenting that the child's ongoing seriously disruptive behavior significantly impairs the education of the child or the education of other children and the ability of the teacher to teach. Under subsection (d)(3)(B), the principal and the child's IEP team must then determine that there is documented evidence of efforts to address the behavior. Such evidence must include: (1) reconvening the child's IEP team to consider the appropriateness of the child's IEP; (2) the provision of special education and related services; (3) the use of supplemental services and strategies, including behavior management plans, that have been implemented over a reasonable period of time and have failed to address the needs of the child in a manner that would enable the child to remain in the current educational placement without significantly impairing the education of the child or the child's classmates and the ability of the teacher to teach; and (4) the training made available to the child's classroom teachers.

If the parents disagree with the principal's determination that the child engaged in ongoing serious disruptive behavior, or with the child's IEP team's decision to place the child in an interim alternative educational setting, a hearing officer shall determine, based on the record relied upon by the principal and the IEP team, whether the determinations by the principal and the assessment by the child's IEP team were justified. The hearing officer's review shall take place within ten [10] business days of the parent's communicating disagreement to the principal unless exceptional circumstances exist, such as the unavailability of the hearing officer, in which case the review shall take place within twenty [20] business days. The committee also recognizes the hearing officer may grant additional, mutually agreed upon extensions of time at the request of parents and school authorities.

Under section 615A(d)(2)(C), if the parents or school district disagree with the hearing officer's decision regarding the determinations of the principal or the child's IEP team, either party may challenge the decision by requesting a due process hearing under section 615(f). During the pendency of any such action or proceeding under subsections (f), (g), or (i), the child's educational placement shall be the placement determined by the hearing officer.

Timing and effect of assertion of a child's disability

Subsection (f) of section 615A denies protection under IDEA to any child not yet found eligible for special education and related services and who engages in behavior that violates the rules or code of conduct of the LEA unless the LEA had knowledge of the child's disability before the behavior that precipitated the disciplinary action occurred. The LEA shall be deemed to have knowledge of a child's disability if the parent had expressed concern, in writing, if practicable, to appropriate educational personnel about the child's need for special education and related services, or the behavior of the child would demonstrate such need, including but not limited to a parental request for an evaluation or an expression of concern by the teacher of the child or other personnel to the director of special education, other agency staff, or the parents about the child's behavior which would demonstrate the child's need for such services.

If the LEA does not have knowledge of a disability prior to taking disciplinary measures against the child, the child may be subject to the same disciplinary measures as children without disabilities who engage in such behavior. However, the evaluation requested by the parent shall be conducted in an expedited manner, and if the child is found to have a disability, the LEA shall provide special education and related services consistent with this part. During the pendency of the evaluation the child's placement shall be determined by school authorities. The committee intends that nothing in this subsection should be interpreted as requiring the agency to conduct an evaluation for the sole reason that a parent requests an evaluation. The committee endorses the Department of Education's interpretation that school districts are not required to conduct evaluations unless the agency suspects or has reason to suspect that the child has a disability.

Subsection (f) of section 615A is a response to the potential misuse of the protections under IDEA by children who do not have disabilities. While attempting to address this issue, the committee, nonetheless, does not intend this amendment to be used to undermine or otherwise qualify school systems' affirmative, ongoing obligation under IDEA to identify, locate, and evaluate all children from birth through age 21 who are in need of special education and related services. The legal burden to identify possible special education needs of children with suspected disabilities remains with school personnel, who have the expertise to do so, not with parents, who generally do not.

In light of the under-identification of certain racial and ethnic minority children in certain school districts across the country, the committee emphasizes that misuse of this amendment to preclude the identification of children with disabilities may be particularly devastating to low-income families, minority children, children with limited English proficiency, and others who do not have the resources to obtain independently the help schools are legally required to provide. State educational agencies will ensure that LEA's do not subject unidentified children with disabilities to disciplinary measures for behaviors that are not being appropriately addressed through programming and services because these children have not been previously referred for evaluations.

Referral to and actions by law enforcement and judicial authorities

Subsection (g) of section 615A specifies that "Nothing in this part shall be construed to prohibit an agency from reporting a crime committed by a child with a disability to appropriate authorities or to prevent State law enforcement and judicial authorities from exercising their responsibilities with regard to the application of Federal and State law to crimes committed by a child with a disability.'

ADMINISTRATION

Section 208 of the bill amends section 617 of IDEA, which governs the Secretary's administration of the act. The bill amends section 617(a) to delete two provisions that are no longer needed. First, paragraph (1)(D), which requires each State to certify the number of children with disabilities receiving special education and related services in the State would be deleted; the Secretary would gather needed data under section 618, as revised by the bill.

Second, section 617(a)(2) (which required the Secretary to develop a uniform financial report for the States as soon as practicable after the 1975 enactment of P.L. 94–142) is also deleted as an unnecessary requirement. The Secretary relies on more general authority to obtain financial information, including Education Department General Administration Regulations governing State-administered programs (34 CFR part 76), and the Uniform Administrative Requirements for Grants and Cooperative Agreements to State and local governments (34 CFR part 80).

The bill adds a new section 617(e), which provides that the Secretary may not, through policy letters or other statements, establish a rule that is required for compliance with and eligibility under part B of IDEA. The committee intends that all requirements under IDEA be established through the legislative or regulatory processes. The bill also adds a provision requiring the U.S. Department of Education to widely disseminate, on a quarterly basis, a list of correspondence from the department during the previous quarter that describes the department's interpretations of this part and the implementing regulations. (Each item on the list must identify the topic being addressed, and include "such other summary information as the Secretary finds appropriate.")

EVALUATION AND PROGRAM INFORMATION

Section 209 of the bill amends section 618 of IDEA, which establishes the basic authority of the Secretary to collect program information and conduct studies and evaluations related to implementation of the act.

The bill, which rewrites section 618 in its entirety, significantly reduces the data burden to State and local educational agencies—by eliminating the requirement for individual State data reports by disability category. However, under revised section 618(b), the Secretary is required, directly or by grant, contract, or cooperative agreement, to conduct studies and evaluations necessary to assess (through quantitative and qualitative data and reporting modes) the effectiveness of efforts to provide free appropriate public education and early intervention services, including assessing the placement of children with disabilities by disability category. Also, section 618(b)(2) requires the Secretary to conduct a longitudinal study that measures the educational and transitional services provided to, and results achieved by, children with disabilities under this act.

The bill adds a new section 618(c) to establish a tracking and reporting system for children with disabilities who are expelled from school. This provision requires the Secretary to study the post-school outcomes for such students and develop procedures for use by State educational agencies in monitoring the status of these students. Each State educational agency is required to collect information requested by the Secretary, and make an interim report of this information 2 years after the effective date of these amendments, and a final report 4 years after such date. Required data include the number and nature of disciplinary actions against students expelled pursuant to section 615A, and post-school status of such students.

PRESCHOOL GRANTS

Section 210 of the bill includes changes to section 619 that are virtually identical to the changes made in section 611, with respect to State administration and State use of funds, subgrants to local educational agencies and other State agencies, and the provision on the use of funds by the outlying areas.

TITLE III—SYSTEMS CHANGE

Given changing demographics and calls for increased accountability, States are under multiple pressures to make system wide changes in how they educate children with disabilities and in how they document the results of those efforts. The committee recognizes that States will require new resources and incentives to address these issues and problems. The committee believes that with fiscal support and incentives, State educational agencies working in partnership with local educational agencies and other interested individuals and organizations will be able to change systems in order to improve practices, procedures, policies, and training leading to improved educational and transitional results for children with disabilities. Title III of the committee amendments include a new part C as a comprehensive systems-change authorization for planning and implementation grants to SEA's to achieve these goals.

The committee recognizes that local educators are often in the best position to identify and design ways to meet the emerging needs of schools. School-based disciplinary strategies, placement-neutral funding formulae and cost-effectiveness strategies are critical local issues that have implications system wide. Other problems such as promoting comprehensive programs of personnel development and clearly defining measurable results that children with disabilities will achieve, and maintaining high academic standards and performance goals for children with disabilities, are also critical issues with system wide implications.

The new section 621 of part C includes a listing of findings and purposes guiding the systems-change activities to be conducted to improve educational and transitional services and results for children with disabilities.

The new section 622 authorizes grants to SEA's working in partnership with local educational agencies and other individuals, agencies, and organizations to address problems through a comprehensive statewide approach to finding solutions to problems. The section also authorizes grants to multiple States, in collaboration with universities and interested persons, to address barriers of a regional nature or national scope.

STAKEHOLDER PARTNERSHIPS

The committee believes that in order for desirable system wide improvements to be identified, pursued, implemented, and sustained, SEA's need to work with broad stakeholder partnerships. Through such partnerships, States will be better equipped to address major system barriers. The committee recognizes that States will vary in their ability to organize partnerships of stakeholders, and to plan and implement systems-change grants. Thus, the committee bill authorizes grants to conduct planning activities (1 year in duration) and to conduct implementation activities (5 years in duration).

CONSORTIA TO ADDRESS REGIONAL OR NATIONAL ISSUES

For SEA's, universities, and interested persons who wish to work in a consortium to address regional or national barriers to changing systems, the new section 622 authorizes funding for regional or national consortia. Examples of system needs and barriers of a regional nature or national scope are activities such as: establishing an alternative means for providing related services in rural areas; revising special education funding formulae and placement strategies; and creating models to meet the needs of unserved and underserved populations.

APPLICATION REQUIREMENTS

The new section 623 outlines application requirements to be met by SEA's requesting systems-change grants. Applicants must describe the extent to which children with disabilities are participating in statewide assessment of student progress, the performance of children with disabilities on statewide assessments and how such assessment results are tied to the indicators used with other children in the general education curriculum. Further, applicants must describe how the organizational structures, policies, procedures, practices, and personnel roles will be changed because of grant activities and how such activities will lead to improved educational services and results for children with disabilities.

PARTICIPATION IN EDUCATION REFORM

The committee believes that children with disabilities must have the opportunity to participate in education reform now occurring in America's schools. Thus, the committee expects that special education systems-change grant activities must be coordinated with other educational systems reform initiatives. Such coordination should result in changes in organizational structures, and in blending administrative and fiscal procedures, and in alignment of use of personnel across special and general education.

INCENTIVES

Section 624 of part C describes incentives to guide applicants in the development of systems-change proposals. Incentives are provided to applicants for significant and substantial levels of collaboration among partners and for addressing the needs of unserved and underserved populations and inappropriately identified populations of children with disabilities. The committee believes that children with disabilities who are members of unserved, underserved and inappropriately identified populations must receive priority as States conduct needs studies, plan for systems improvements, and prepare personnel to work with children in special education.

TITLE IV—RESEARCH AND PERSONNEL PREPARATION

Title IV of the bill creates a new part D consolidating the authorization for research and innovation, and personnel preparation activities. Title IV of the bill consolidates part D in current law, which funds personnel preparation activities, and part E in current law, which funds research activities. The committee intends that research and personnel training activities are to be coordinated, ongoing and systematic. Personnel preparation activities are to reflect the most current findings from research programs. Also, research programs should explore new and innovative ways to train personnel, both pre-service and in-service, and assess the effectiveness and impact of such activities.

Further, the committee intends that research/innovation and personnel preparation activities conducted under this part be closely linked to needs as identified within statewide improvement activities, including those funded under the new part C. It is anticipated that, over time, State and local educational agencies' efforts to improve services and results for children with disabilities will be closely coordinated with and influence the development of proposals to conduct research and personnel preparation activities.

RESEARCH AND INNOVATION

The new section 633(c) of part D of the committee bill authorizes funding for three types of research activity: (1) new knowledge production; (2) integration of research and practice; and (3) improving the use of professional knowledge. The committee intends this sequence of activity to improve the movement of new ideas, as validated through research, to the classroom, thus improving educational and transitional services and results for children with disabilities. For example, as a new behavior management strategy is validated through research, plans should be developed to demonstrate the strategy within a classroom and to disseminate it once it is validated as effective.

New knowledge production

The new section 633(b) of the act funds research and innovation projects in areas of new knowledge, related to such things as learning styles, instructional approaches, behavior management, assessment tools, assistive technology, program accountability, and innovative models of personnel preparation. The committee expects such research projects to involve teachers, family members, and consumers of services in the process of originating, defining, and testing new knowledge. The committee believes that such involvement will improve the linkage of new knowledge with improved practice in the classroom.

Research to practice

The new section 633(c) authorizes funding for projects which validate new knowledge findings through demonstration and dissemination of successful practices to appropriate audiences. The committee intends new knowledge to be tested in practical settings (e.g., classrooms) through demonstration and outreach projects. Such projects are to include efforts that are regional and national in scope so that new knowledge is widely disseminated and used in classrooms with many children with disabilities.

Use of knowledge

The new section 633(d) authorizes projects to organize and disseminate practical knowledge to teachers, parents, and others who work with children with disabilities in classrooms and other settings. The committee intends this knowledge to attain widespread use where it may have a measurable positive impact on the educational performance of children with disabilities. The committee recognizes that administrators, educators, and family members must participate in the development and adoption of new knowledge to ensure classroom use. Stakeholders must be empowered to explore effective ways to apply new knowledge in varied context to yield new practices that will enjoy broad ownership, commitment, and implementation.

Personnel preparation

The new section 634 of the act authorizes four targeted types of personnel preparation and support activities: (1) personnel serving children with high incidence disabilities; (2) personnel serving children with low-incidence disabilities; (3) leadership personnel; and (4) special projects to address alternative and improved ways of preparing personnel to address the needs of children with disabilities. The committee notes that, at present, many general educators are not fully prepared to teach children with disabilities in the regular classroom. In light of the unique needs of children with behavior problems and in order to enhance the ability of educators to respond to all children with behavior problems in the classroom, the committee directs the Secretary to support projects for in-service training of personnel. Increased emphasis on in-service training for school personnel benefits the teacher and all the children in the classroom. The committee recognizes the need for a sufficient quantity and quality of personnel to work with children with disabilities. Personnel shortages are evident in most States. Shortages of personnel to work with children in low-incidence populations (e.g., blind, deaf, or multiply disabled) are critical in rural areas of many States. These shortages require innovative and unique solutions. The committee recognizes that a lack of well-trained personnel affects the quality of services provided to children with disabilities. Section 634 affirms the need to address State-identified needs for qualified personnel who have skills and knowledge derived from information validated through practical research.

Personnel serving children with high-incidence disabilities

The new section 634(b) of the act authorizes support for the preparation of a variety of personnel to work with children who have disabilities such as, learning disabilities, mental retardation, serious emotional disturbance, and speech impairments, and others. Children with such disabilities represent a majority of the children with disabilities. The committee expects such support to ensure that teachers and related services personnel from various disciplines and backgrounds receive interdisciplinary training regarding innovative methods to address the diverse needs of individual children with disabilities. The committee recognizes the need to recruit and train highly qualified personnel, especially from unserved and underserved groups, using innovative career ladders and mentoring experiences, to solve the diverse problems facing children with disabilities in today's schools.

Leadership personnel

The new section 634(c) provides support for the training of personnel at the advanced graduate, doctoral, and post-doctoral levels. The committee encourages the preparation of leadership personnel who are able to address the needs of children with disabilities, especially those who are members of unserved, underserved, or inappropriately identified populations, and who are able to function in interdisciplinary settings with other persons affecting educational and transitional services of children with disabilities. Further, the committee expects support to go to institutions of higher education that integrate professional development of general education, special education, and other disciplines.

Personnel serving children with low-incidence disabilities

The new section 634(d), provides support for projects to train a variety of personnel who work with children with low-incidence disabilities such as sensory impairments, multiple disabilities, and other severe disabling conditions. The committee intends to ensure that adequate personnel are prepared to meet the needs of low-incidence populations and to provide early intervention services to infants and toddlers with disabilities. When preparing personnel to provide services to visually impaired or blind children, the committee intends that personnel shall be prepared to teach and use braille in the provision of services to such children.

Special projects to address alternative and improved ways of preparing personnel to address the needs of children with disabilities

The new section 634(e), authorizes Projects of National Significance for the development and demonstration of new and innovative program models and approaches to the preparation of personnel to work with children with disabilities. The committee intends Projects of National Significance to demonstrate and apply new knowledge and models for the pre-service and in-service preparation of special education, general education, and related services personnel serving children with disabilities. Such models should focus on finding innovative ways for personnel to collaborate on interdisciplinary teams, supporting children with disabilities to meet challenging performance expectations, particularly expectations related to the general education curriculum.

TITLE V—TECHNICAL ASSISTANCE, SUPPORT AND DISSEMINATION OF INFORMATION

Title V of bill creates a new part E which authorizes parent training and information, technical assistance, support, dissemination, and technology and media activities. These activities are to be coordinated with and contribute to system changes and improved educational and transitional services and results for children with disabilities as described in parts B, C, and H of the bill.

PARENT TRAINING AND INFORMATION

The new section 643 supports Parent Training and Information Center activities, as authorized in current law. The bill provides for a number of changes, clarifications, and additions to current Parent Training and Information Center activities, and authorizes Community Parent Training and Information activities.

The committee intends to encourage the involvement of parents of children with disabilities who are members of unserved, underserved, or inappropriately identified populations. Parents are to be supported to work in partnership with State systems-change activities so that improved services and results will meet the needs and expectations of parents.

Parent training and information centers

New section 643(b) supports Parent Training and Information Centers. Such centers must collaborate with other centers and parent groups within a State and with systems-change partners in a State. Further, the subsection requires centers to work together through national and regional networks to address the needs of parents of children with disabilities who are members of unserved, underserved, or inappropriately identified populations in their States.

Community parent training and information programs

Likewise, the new section 643(c) authorizes Community Parent Training and Information Programs to build capacity, demonstrate, and replicate models ensuring that parents of children with disabilities from unserved and underserved populations are able to participate in parent training and information activities. Further this subsection supports the provision of services to parents of children with disabilities from unserved and underserved populations, as well as parents of children inappropriately identified as disabled.

Technical assistance

The new section 643(d) supports technical assistance activities to develop, coordinate, and disseminate information to Parent Training and Information Centers and Community Parent Training and Information Programs. The committee intends to encourage technical assistance in priority areas such as the transition of children with disabilities, mediation and alternative methods of dispute resolution, and the provision of assistance to parent training and information centers to become effective partners in State systems-change activities.

COORDINATED TECHNICAL ASSISTANCE AND DISSEMINATION

The new section 644 provides support for a range of activities as described under current law. The committee's purpose in supporting these activities is to ensure continuous improvement in services and results for children with disabilities. The committee intends technical assistance and dissemination activities under this section to be closely linked and coordinated in support of improved services and results for children with disabilities as described in parts B, C, and H of this act. The committee recognizes the positive effects of the Regional Resource Centers (RRC) and the Federal Resource Center (FRC), funded under this and previous acts, on the lives of children with disabilities and their families. The RRC's and the FRC have been able to provide coordinated, efficient technical assistance across State lines and have used their networking capacity to provide rapid responses to critical and emerging issues.

Systems-change technical assistance to States

The new section 644(b) of the act provides support for technical assistance to States, local education agencies, and other entities to help them plan and conduct comprehensive systems-change activities, as described in part C. The committee intends that technical assistance will be focused on helping State partnerships improve services and results for children with disabilities. Innovative methodologies and arrangements which support and empower stakeholders within States should be sought. States may expect to change their policies, procedures, and practices if they are to make stakeholder-accountable continuous improvements in services and results for children with disabilities. Technical assistance is expected to address these and other systemic management or leadership problems and issues.

Technical assistance to address interagency barriers

The new section 644(c) provides support for technical assistance to address interagency barriers to results-oriented changes in systems. The committee supports collaboration between educational and noneducational entities at Federal, State, and local levels to facilitate changes in systems that result in improved outcomes for children with disabilities. Technical assistance will support collaboration between agencies providing: early intervention services; transition services between part H programs and preschool programs; and transition services for youth with disabilities moving from school to adult environments.

Technical assistance for defined State priorities

The new section 644(d) provides support for specialized technical assistance and dissemination activities focusing on defined priority areas including those identified through State systems-change partnerships. The committee expects that these projects will address the needs of specific populations of children with disabilities, such as deaf-blind children and other groups of children with low-incidence disabilities and their families.

The committee recognizes the post-secondary education needs of individuals who are deaf and hard of hearing and supports the operation of four model regional center programs to address those needs.

Information and dissemination technical assistance

The new section 644(e) provides support for national information dissemination and referral activities relating to: (1) infants and toddlers with disabilities and their families, and children with disabilities and their families; (2) services and supports to deaf/blind children; (3) services and supports to blind and print-disabled children; (4) post-secondary services to individuals with disabilities; and (5) the need for and use of personnel to provide services to children with disabilities.

It is the intent of the committee that clearinghouses and other programs conducting information dissemination and referral activities collaborate closely with State systems-change partners to eliminate barriers to continuous improvement of service outcomes and to continue to disseminate information about these outcomes.

National coordination of technical assistance

The new section 644(f) of the act provides support for the coordination of all national technical assistance and dissemination activities. National coordination of technical assistance, support, and dissemination activities is needed to ensure the full implementation of parts B and H, as well as implementation of State systems-change partnership activities under the new part C of the act and to ensure that these activities are focused on improved results for children.

Technology development, demonstration and utilization

The new section 645 provides for programs which have provided technology and media services to individuals with disabilities for several years under current law. The intent of the committee is to continue support for these programs under a new and restructured section 645.

The new section 645(a) describes the intent and eligibility of applicants to participate in the provision of services under this section.

The new section 645(b) provides support for the research, development, and demonstration of innovative and emerging technology benefiting children with disabilities. This subsection further provides support for: transfer of technology for use by children with disabilities; development of accessible, effective, and usable products; and the communication of information about such products and their uses to children with disabilities.

Media

The new section 645(c) of IDEA authorizes the use of funds for captioning the broad range of programming currently supported by the Department of Education under the Instructional Media for Individuals with Disabilities authority. However, the committee expects the department to modify the scope of programs it captions with the implementation of the recently enacted Telecommunications Act of 1996. The Telecommunications Act requires the Federal Communications Commission to prescribe regulations by August 1997 that ensure that new video programming is closed-captioned and that video programming providers or owners maximize the accessibility of existing programming through closed-captioning. The committee anticipates that implementation of this requirement will change the Department of Education's role in captioning because the Telecommunications Act clearly anticipates captioning by the providers and owners of programming. However, it also authorizes the FCC to establish appropriate timetables for implementing mandatory captioning and to exempt programs or classes of programs for which the provision of captioning would be economically burdensome for the owners or providers. Once the FCC regulations are in place, the committee would expect the Department of Education to direct its captioning resources toward programming in which there is a clear public interest in ensuring its accessibility. In making its funding decisions, the Department of Education should take into account the educational and informational aspects of the programming in terms of the needs of the individuals who are hearing impaired.

TITLE VI—INFANTS AND TODDLERS WITH DISABILITIES

Title VI of the bill amends part H of IDEA, which assists States to provide early intervention services to all children with disabilities from birth through age two and their families. Part H is an evolving program that has proven successful and enjoyed strong support since its enactment in 1986. Therefore, no major amendments are proposed. However, the bill makes a number of technical and conforming changes and other revisions, as described below:

FINDINGS AND POLICY

Section 601 of the bill amends the policy statement under section 671(b) of IDEA by striking "program" and inserting the broader term "system," to clarify that a basic policy of part H is to assist States to establish a statewide, comprehensive, coordinated multidisciplinary interagency system of early intervention services for infants and toddlers with disabilities and their families.

The bill adds a specific policy statement to section 671(b) on "at-risk infants and toddlers," as follows: "to encourage States to expand opportunities for children from birth through age 2 who are at risk of having substantial developmental delays if early intervention services are not provided to the children."

DEFINITIONS

Section 602(a) of the bill amends the definitions in section 672 of IDEA, by adding a singular definition of "infant or toddler with a disability," and by providing for using singular or plural terms for "at-risk infant or toddler" or "at-risk infants and toddlers." The bill also alphabetizes and adds headings to all definitions.

GENERAL AUTHORITY

Section 603 of the bill makes a technical change to section 673 (General Authority), by striking "develop" and inserting "implement," to clarify that the purpose of the part H grants is to assist States to "implement" a system of early intervention services. Because the start-up effort for developing an early intervention system within each State has been achieved, the term "implement" is more appropriate.

ELIGIBILITY

Section 604 of the bill makes a technical change to section 674 of IDEA by changing the title of the section from "General Eligibility" to "Eligibility". The bill also strikes the statement in section 674 related to establishment of a State Interagency Coordinating Council and inserts "the State has in effect the early intervention services required by section 676." (All States now have such a council; therefore that provision is no longer relevant. However, as a basic condition for receiving funds under part H, it is relevant to reference the statewide system of early intervention services in section 676.)

CONTINUING ELIGIBILITY

Section 605 of the bill repeals section 675 of IDEA (Continuing Eligibility). The provisions in section 675 applied only to the first 5 years of the States" participation in the part H program and are now obsolete. The substantive requirements that States now must meet are retained in section 676 (Requirements for a statewide System).

REQUIREMENTS FOR A STATEWIDE SYSTEM

Section 606(b)(2) of the bill amends section 676 of IDEA (Requirements for a statewide System), by striking the provision in section 676(b)(2) requiring timetables for ensuring early intervention services, and inserting a new paragraph (2), which states that each statewide system must have "a State policy in effect ensuring that appropriate early intervention services are available to all infants and toddlers with disabilities (including Indian infants and toddlers with disabilities on reservations) in the State and their families."

The provision on "comprehensive system of personnel development" in 676(b)(8)(C) is amended by 602(b)(4) of the bill by adding "inner city" to "rural," as areas in which training of personnel are needed. With respect to training personnel to coordinate the transition services for infants and toddlers with disabilities from an early intervention program, the bill strikes "a preschool program under section 619 of part B" and inserts "preschool or other appropriate services" to ensure that other options are considered during the transition planning.

Section 606(b)(6) of the bill makes a technical change to the data system required in section 676(b)(14) by striking the specific information listed in that paragraph and, in lieu thereof, including a reference to data "requested by the Secretary under section 618 that relates to this part."

Section 606(b)(7) of the bill adds a new paragraph (15) to section 676(b) to clarify that the statewide system must have "a council that meets the requirements of section 682." Section 606(b)(7) also adds a new subsection related to the use of paraprofessionals, which states: "Nothing in this act, including subsection (b), prohibits the use of paraprofessionals who are appropriately trained and supervised by qualified personnel (in accordance with State law, regulations, or written policy) in meeting the requirements of this part."

INDIVIDUALIZED FAMILY SERVICE PLAN

Section 607 of the bill makes technical and conforming changes to section 677 of IDEA (individualized family service plan (IFSP)).

STATE APPLICATION AND ASSURANCES

Section 678 of IDEA (State Application and Assurances) is amended by section 608 of the bill, as follows: Section 608(a)(1) amends section 678(a)(3) (information demonstrating eligibility under section 674) by requiring that the State include information demonstrating that it has in effect a statewide system of early intervention services, and by requiring a description of the services to be provided to infants and toddlers and their families under this part.

Section 608(a)(2) strikes paragraph (4) under section 678(a) (requiring each State to demonstrate its eligibility for a particular year during the first 5 years of participation under part H), which is now obsolete. A new paragraph (4) is added requiring a statement of whether the State will serve at-risk infants and toddlers with disabilities and their families under part H.

Section 608(a)(4) replaces the transition planning requirements in section 678(a)(8) of IDEA with more comprehensive provisions regarding such planning. The new provisions ensure that the State has procedures for notifying the local educational agency about the toddler and, with the approval of the family, convening a planning conference involving the lead agency, the family and the local educational agency.

The bill also includes language permitting (at the discretion of all parties) the transition process to begin up to six (6) calendar months prior to the child's third birthday to allow increased opportunity for planning and development of appropriate and effective transition activities. This in no way should be construed to mean that an agency or service provider could not revisit the transition plan throughout the transition period if the needs of the child and family change.

The new provision also provides for transition planning in cases when a child is not eligible for services under part B. The bill retains the requirements in current law related to program options from the child's third birthday through the remainder of the school year and to establishing a transition plan.

USES OF FUNDS

Section 609 of the bill amends section 679 of IDEA (Uses of Funds) to provide greater flexibility in addressing the needs of "at-risk infants and toddlers" in those States not currently serving such children. Section 609(a)(4) adds a new paragraph (4) to permit a State to use its part H funds for initiating, expanding, or improving collaborative efforts related to at-risk infants and toddlers, including: establishing linkages with appropriate public and private organizations, services and personnel for identifying and evaluating at-risk infants and toddlers; referring those children to other (nonpart H) services; and conducting periodic follow-ups on each referral to determine if the child's eligibility under part H has changed.

While paragraph (4) applies, by its terms, only to States that do not serve at-risk infants and toddlers under part H, States that are serving those infants and toddlers may carry out these activities as well, under the general authority to use part H funds to implement their statewide systems. Paragraph (4) is intended to provide both clear authority and an incentive for States that are not serving at-risk infants and toddlers, not to penalize States that are already doing so.

PROCEDURAL SAFEGUARDS

Section 610 of the bill amends section 680 of IDEA (Procedural Safeguards) by making technical and conforming changes and by adding a new paragraph (8) to clarify that the procedural safeguards available under section 680(a) include "the right to use mediation in accordance with section 615(e)."

STATE INTERAGENCY COORDINATING COUNCIL

Section 611 of the bill amends section 682 of IDEA (State Interagency Coordinating Council), as follows: with respect to the composition of the council under section 682(b), the bill provides for including, in addition to one member of each State agency involved in the provision of early intervention services to infants and toddlers with disabilities, a member from any other State agency that provides services to at-risk infants and toddlers and their families. Section 611(a)(4) of the bill also provides for adding at least one member from a Head Start agency or program in the State, and a representative from the State agency responsible for child care.

Section 611(b) of the bill amends section 682(e) of IDEA (Functions of the Council) to add a new paragraph (3), which provides that "The Council may advise appropriate agencies in the State with respect to the integration of services for infants and toddlers with disabilities (including at- risk infants and toddlers), regardless of whether at-risk infants and toddlers are eligible for early intervention services in the State."

Section 611(c) of the bill strikes the obsolete provision in 682(g) regrading "existing Councils".

ALLOCATION OF FUNDS

Section 613 of the bill amends section 684 of IDEA (Allocation of Funds) by making technical and other changes, as follows: The bill requires the part H funds awarded to the outlying areas to be used to carry out part H and prohibits the consolidation of such funds, as authorized under section 501 of P.L. 95–134. Section 613(b) makes technical changes to section 684(b) regarding distribution of funds to tribes and tribal organizations.

Section 613(c) of the bill requires the Secretary to reserve up to "0.0005" of the amount of part H funds appropriated under section 687 for the operation of the Federal Interagency Coordinating Council and provides that the Secretary may reserve up to $100,000 for expenses of the panel of experts in studying the definition of developmental delay under section 686.

FEDERAL INTERAGENCY COORDINATING COUNCIL

Section 614 of the bill amends section 685 of IDEA (Federal Interagency Coordinating Council), to clarify that one of the purposes (minimizing duplication of programs and activities across Federal, State and local agencies related to early intervention services for infants and toddlers with disabilities) also includes at-risk infants and toddlers and their families.

Section 614(b) of the bill amends section 685(b) (regarding the composition of the Council) to make technical changes, including, designating a new member (a representative of the Office of Educational Research and Improvement in the U.S. Department of Education); clarifying that the Administration for Children and Families shall assign two members to the Council—a representative of the Children's Bureau, and a representative of the Head Start Bureau; clarifying that parents of children aged 12 or under "shall constitute at least 20 percent of the members of the Council"; and making other technical changes.

Section 614(c) of the bill amends the Functions of the Council in section 685(d) by clarifying that the council, in addition to advising the Secretary of Education (as in current law), the Council also is responsible for advising the Secretaries of the U.S. Departments of

Health and Human Services, Defense, Agriculture, and Interior and the Commissioner of Social Security "in the performance of their responsibilities related to serving children from birth through age 5 who are eligible under this part or under part B."

STUDY OF DEFINITION OF DEVELOPMENTAL DELAY

Section 615 of the bill includes a provision requiring the Federal Interagency Coordinating Council to convene a panel of experts to develop recommendations to the Secretary for a model definition of the term "developmental delay" to assist States in implementing the requirement in section 676(b)(1) related to each State's definition of developmental delay.

The bill requires the panel to review the definition of infants and toddlers with disabilities in section 672(1); conduct an analysis of the criteria used by States to determine whether a child has a developmental delay or a diagnosed physical or mental condition, for purposes of ascertaining whether the child is an infant or toddler with a disability; and consider the appropriateness of defining the term "developmental delay" to include the combination of a multiplicity of factors that, when taken together, have a high probability of resulting in developmental delay if early intervention services are not provided.

The bill requires the Secretary to disseminate a model definition, following publication of the panel recommendations in the Federal Register and reviewing the comments and recommendations received.

V. COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, April 15, 1996.

Hon. NANCY LANDON KASSEBAUM,
Chairman, Committee on Labor and Human Resources,
U.S. Senate, Washington, DC.

DEAR MADAM CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1578, the Individuals with Disabilities Education Act Amendments of 1996, as ordered reported by the Senate Committee on Labor and Human Resources Services on March 21, 1996. Because enactment of S. 1578 would not affect direct spending or receipts, pay-as-you-go procedures would not apply to the bill.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JUNE E. O'NEILL, *Director.*

COST ESTIMATE

1. Bill number: S. 1578.
2. Bill title: Individuals with Disabilities Education Act Amendments of 1996.
3. Bill status: As ordered reported by the Senate Committee on Labor and Human Resources on March 21, 1996.

4. Bill purpose: The purposes of S. 1578 are to ensure that all children with disabilities have available to them a free appropriate public education, to protect the rights of children with disabilities and their parents, and to assist states and local governments in providing education for children with disabilities. Further purposes of the bill are to assist States in providing early intervention services for infants and toddlers with disabilities and to assess efforts to educate children with disabilities.

S. 1578 would revise the current Individuals with Disabilities Education Act (IDEA) and would reauthorize funding for many of the programs that fall under the act through fiscal year 2002.

5. Estimated cost to the Federal Government: The following table shows discretionary spending under S. 1578 with and without adjustments for inflation in cases where the bill would authorize such sums as necessary. With adjustments for inflation, authorizations of appropriations would total $25.1 billion over the 1996–2002 period, as compared with $21.0 billion under current law (see Table 2). Without adjustments for inflation, authorizations of appropriations would total $23.1 billion over the 1996–2002 period, as compared with $19.3 billion under current law (see Table 3).

TABLE 1: ESTIMATED BUDGETARY IMPACT OF S. 1578

[By fiscal year, in millions of dollars]

	1996	1997	1998	1999	2000	2001	2002
With Adjustments for Inflation							
Spending under current law:							
Estimated authorization	3,212	2,764	2,844	2,923	3,005	3,089	3,176
Estimated outlays	3,227	3,129	2,901	2,850	2,904	2,985	3,069
Proposed changes:							
Estimated authorization	201	737	593	609	626	644	662
Estimated outlays	20	194	551	611	613	622	640
Spending under S. 1578:							
Estimated authorization	3,413	3,500	3,436	3,533	3,632	3,733	3,838
Estimated outlays	3,247	3,323	3,452	3,461	3,517	3,607	3,708
Without Adjustments for Inflation							
Spending under current law:							
Estimated authorization	3,212	2,683	2,683	2,683	2,683	2,683	2,683
Estimated outlays	3,227	3,121	2,836	2,710	2,683	2,683	2,683
Proposed changes:							
Estimated authorization	201	727	574	574	574	574	574
Estimated outlays	20	193	544	593	581	574	574
Spending under S. 1578:							
Estimated authorization	3,413	3,410	3,257	3,257	3,257	3,257	3,257
Estimated outlays	3,247	3,314	3,380	3,303	3,265	3,257	3,257

Note: Current law figures for 1996 are the annualized amounts already provided by appropriations acts for the fiscal year. Proposed changes figures for 1996, are the difference between what is autherized in the bill and the current law annualized amounts. Components may not sum to totals, because of rounding.

The costs of this bill fall within budget function 500.

TABLE 2: ESTIMATED BUDGETARY IMPACT OF S. 1578 BY TITLE, WITH ADJUSTMENTS FOR INFLATION

[By fiscal year, in millions of dollars]

	1996	1997	1998	1999	2000	2001	2002
Title II:							
Estimated authorization	0	0	4	4	4	4	5
Estimated outlays	0	0	0	3	4	4	4
Title III:							
Estimated authorization	83	167	30	31	32	33	34

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TABLE 2: ESTIMATED BUDGETARY IMPACT OF S. 1578 BY TITLE, WITH ADJUSTMENTS FOR INFLATION—Continued

[By fiscal year, in millions of dollars]

	1996	1997	1998	1999	2000	2001	2002
Estimated outlays	8	66	124	67	38	31	32
Title IV:							
Estimated authorization	86	170	131	135	138	142	146
Estimated outlays	9	69	137	139	136	138	141
Title V:							
Estimated authorization	32	75	93	96	98	101	104
Estimated outlays	3	27	62	86	94	98	100
Title VI:							
Estimated authorization	0	325	335	344	354	363	374
Estimated outlays	0	33	229	316	342	351	361
Total:							
Estimated authorization	201	737	593	609	626	644	662
Estimated outlays	20	194	551	611	613	622	640

Note: Components may not sum to totals because of rounding.

TABLE 3: ESTIMATED BUDGETARY IMPACT OF S. 1578 BY TITLE, WITHOUT ADJUSTMENTS FOR INFLATION

[By fiscal year, in millions of dollars]

	1996	1997	1998	1999	2000	2001	2002
Title II:							
Estimated authorization	0	0	4	4	4	4	4
Estimated outlays	0	0	0	3	4	4	4
Title III:							
Estimated authorization	83	167	30	30	30	30	30
Estimated outlays	8	66	124	67	37	30	30
Title IV:							
Estimated authorization	86	170	131	131	131	131	131
Estimated outlays	9	69	137	138	133	131	131
Title V:							
Estimated authorization	32	75	93	93	93	93	93
Estimated outlays	3	27	62	85	92	93	93
Title VI:							
Estimated authorization	0	316	316	316	316	316	316
Estimated outlays	0	32	221	300	316	316	316
Total:							
Estimated authorization	201	727	574	574	574	574	574
Estimated outlays	20	193	544	593	581	574	574

Note: Components may not sum to totals because of rounding.

6. Basis of estimate: The spending that would occur under S. 1578 would be subject to the availability of appropriated funds. Estimated outlays are based on historical spending of programs authorized by IDEA.

Title I of S. 1578 would have no Federal budgetary effects. Title II would revise part B of IDEA, which includes general grants to States, grants to States for preschool children, and evaluation and program information grants. S. 1578, like current law, would authorize such sums as may be necessary for general grants and grants for preschool children. Therefore, S. 1578 would have no Federal budgetary effects relative to current law for these two programs. S. 1578 would authorize appropriations for evaluation and program information grants of $4.1 million for fiscal year 1998 and such sums as may be necessary for the succeeding fiscal years. If authorized levels for this program are adjusted for inflation, new budget authority for this program would total $21.7 million from

1998 to 2002. If authorized levels are not adjusted for inflation, new budget authority over the same period would total $20.5 million.

Title III of S. 1578 would extend authorizations of appropriations for programs under part C of IDEA through fiscal year 1997 at the authorization levels set in current law for fiscal year 1994—a total of $167 million. Title III would also replace the various program authorizations with a single authorization of appropriations for grants for system wide changes beginning in fiscal year 1998. S. 1578 would authorize $30 million for fiscal year 1998 and such sums as may be necessary through 2002. Total new budget authority would be $158.6 million for 1998 through 2002 if adjusted for inflation, or $150 million if not adjusted for inflation.

Title IV of S. 1578 would extend authorizations of appropriations for programs under part D of IDEA through fiscal year 1997 at the authorization levels in current law for fiscal year 1994—a total of $170 million. S. 1578 would authorize a total of $131 million for fiscal year 1998 for personnel and research grants under part D, thereby consolidating parts D and E of IDEA. (Under current law, grants for personnel fall under part D of IDEA and grants for research fall under part E.) Total new budget authority for part D under S. 1578 would be $692.7 million for 1998 through 2002 if adjusted for inflation, or $655 million if not adjusted for inflation.

Title V of S. 1578 would extend authorizations of appropriations for programs under part E of IDEA through fiscal year 1997 at the authorization levels in current law for fiscal year 1994—a total of $75 million. Effective in fiscal year 1998, S. 1578 would create a new part E which would replace current law parts F and G. Title V would authorize a total of $93 million for fiscal year 1998 and such sums as necessary for fiscal years 1999 through 2002 for parent training, coordinated technical research, and technology development. Total new budget authority under this title would be $492 million for 1998 through 2002 if adjusted for inflation, or $465 million if not adjusted for inflation.

Title VI of S. 1578 would extend authorizations of appropriations at such sums as may be necessary through fiscal year 2002 for part H of IDEA, which gives grants to States for infants and toddlers with disabilities. Authorizations of appropriations would total nearly $1.8 billion for 1998 through 2002 if adjusted for inflation, or about $1.6 billion without adjustments for inflation.

7. Pay-as-you-go considerations: None.

8. Estimated impact on State, local, and tribal governments: Section 4 of Public Law 104–4 excludes from application of the act legislative provisions that "establish or enforce statutory rights that prohibit discrimination on the basis of . . . handicap or disability." CBO has determined that all provisions of S. 1578 either fit within this exclusion, are conditions of Federal assistance, or constitute a duty arising from participation in a voluntary Federal program, and are thus not mandates under the terms of P. L. 104–4.

9. Estimated impact on the private sector: S. 1578 contains no private sector mandates as defined in Public Law 104–4. Any requirements in the bill are excluded from consideration under the Unfunded Mandates Reform Act of 1995 because they establish or

enforce statutory rights that prohibit discrimination on the basis of disability or because they are conditions of Federal assistance.

10. Estimate comparison: None.

11. Previous CBO estimate: None.

12. Estimate prepared by: Federal cost estimate: Justin Latus; State and local cost estimate: Mark Nicole; private sector mandate estimate: Jay Noell.

13. Estimate approved by: Paul N. Van de Water, Assistant Director for Budget Analysis.

VI. REGULATORY IMPACT STATEMENT

The committee has determined that there will be substantial reductions in the regulatory burden of paperwork as the result of this legislation.

VII. SECTION-BY-SECTION ANALYSIS

Section 101. This section provides that the short title of the bill is the "Individuals with Disabilities Education Act Amendments of 1996."

Section 102. This section amends section 602 of the act to include definitions of "behavior management plan," "educational service agency," "general education curriculum," "inappropriately identified," "individualized family service plan (IFSP)," and "infant or toddler with a disability," "outlying areas," "parent" (to include a legal guardian), "supplementary aids and services," "systems-change activities," "systems-change outcomes," and "unserved and underserved". The section also deletes definitions of "research and related purposes," "public and private agency," and "youth with a disability" and moves the definition of "transition services" to section 614(i).

Section 103. This section amends section 603 of the act to clarify that the U.S. Department of Education Office of Special Education Programs (OSEP) is authorized to accept voluntary and uncompensated services in furtherance of the purposes of this act.

Section 104. This section clarifies the public comment period on regulations proposed under part B.

Section 105. This section amends section 609 of the act to clarify that, under parts C and E, grants may not be made relating exclusively to programs, projects, and activities pertaining to children aged 3 though 5, unless a State is eligible to receive a preschool grant under section 619 of the act.

Section 106. This section amends section 610 of the act regarding administrative provisions pertaining to support programs under IDEA, and reduces the number of support programs from 14 to 7. This section extends current provisions for outreach to minorities.

Section 107. This section repeals section 605 of the act (Acquisition of Equipment and Construction of Necessary Facilities) and section 607 (Grants for the Removal of Architectural Barriers).

Section 108. This section of the bill provides that section 610 under current law shall apply with respect to administrative activities related to parts C through G of current law for fiscal years 1996 and 1997. The bill also requires the Secretary to use funds appropriated under IDEA for fiscal year 1997 to carry out such administrative activities as may be necessary regarding evaluation of applications for fiscal year 1998.

Section 109. This section provides that, except as provided in section 107, the amendments made by title I of the bill shall take effect on October 1, 1997.

Section 201. This section amends section 611 of the act regarding entitlements and allocations to State and local educational agencies under part B of IDEA by: expanding the list of activities that a State may carry out if it retains part B funds at the State level; giving States options in making minimum grants; requiring that outlying areas to use their part B funds in accordance with the purposes of IDEA; making conforming amendments regarding grants to the Secretary of the Interior and submission of annual reports from tribes or tribal organizations to the Secretary of the Interior.

Section 202. This section amends section 612 of the act to simplify the requirements for State participation under part B. This section amends the "child find" requirements to codify current policy that a child who has a disability and needs special education need not be classified by a specific impairment or condition in order to be eligible for services under part B. The section also requires that the State's funding formula not result in placements that violate the policy that children are placed in the least restrictive environment; and that the State educational agency examines data to determine if significant racial disproportionality is occurring in the evaluation and placement of children under this act; and if either situation is identified, to take appropriate corrective action. The section amends provisions for transition from part H to part B services to conform to the transition planning requirements under part H. The section clarifies reimbursement procedures for private placement and requires parents to notify agencies that they intend to place a child in a private school. This section requires noneducational agencies to reimburse educational agencies for services to eligible children, and requires that States ensure that an interagency agreement or other mechanism is in effect between the affected agencies. Further, this section amends the provision related to the "Comprehensive System of Personnel Development" to simplify and reduce the burden of data provisions. In this section, personnel standards requirements are revised to include the use of paraprofessionals, and to clarify that paraprofessionals must be trained and supervised by qualified personnel in accordance with State law, regulations, or written policy. This section also provides for IDEA to conform to general education initiatives, requiring States to establish performance goals and indicators for children with disabilities, and requiring States to ensure that these children participate in statewide and districtwide assessments, with appropriate accommodations or alternative assessments where necessary. This section clarifies that States' policies and procedures for public comment and rulemaking process will suffice to fulfill public review requirements. Finally, this section reduces paperwork and staff burden by no longer requiring States to submit 3-year State plans.

Section 203. This section amends section 613 of the act to reduce paperwork and simplify participation of local educational agencies under part B by replacing the local application requirements with new local eligibility provisions, and by conforming those provisions to new State eligibility requirements. This section provides four exceptions to "maintenance of effort" provisions. This section provides flexibility to local educational agencies in the use of part B funds, while still ensuring that children with disabilities receive needed special education and related services by: permitting local educational agencies to provide special education services to a child with a disability in the regular classroom without having to track the costs of incidental benefits to nondisabled students; allowing services provided to IDEA-eligible children to be simultaneously provided to children who are protected by the Americans with Disabilities Act and section 504 of the Rehabilitation Act; allowing local educational agencies to use up to 5 percent of their part B funds to develop and implement a coordinated services system with other agencies; and authorizing use of part B funds to design, implement, and evaluate a school-based improvement plan. This section also provides for joint eligibility under part B if an LEA is too small to qualify for a minimum grant. Paperwork is reduced by providing that an LEA would not have to resubmit policies and procedures which have demonstrated compliance to the satisfaction of the State, unless those policies and procedures are changed.

Section 204. This section amends section 614 of the act to require review of existing evaluation data on a child with disabilities to determine the need for reevaluation before proceeding. The section requires the IEP team to consider behavior management plans to address problem behavior. The section replaces IEP "annual goals and short term instructional objectives" with "measurable annual objectives." The section requires each local educational agency to ensure that the parents of each child with a disability are members of any group that makes decisions on the educational placement of their child.

Section 205. This section repeals section 614A of the act.

Section 206. This section amends section 615(a) of the act to require that States make mediation available to parents as an alternative to due process on a voluntary basis. This section requires parents to provide the agency with written notice of their intent to request a due process hearing 10 business days prior to filing the complaint. The section clarifies that awards of attorneys' fees shall be determined in accordance with the law established by the Supreme Court in *Hensley* v. *Eckerhart,* 461 U.S. 424 (1983) and adds a provision to clarify that an IEP meeting shall not in and of itself be deemed a proceeding triggering the award of attorneys' fees.

Section 207. Section 615A provides guidelines that describe how schools may discipline students with disabilities under certain circumstances involving dangerous weapons or drugs; serious bodily injury; or ongoing seriously disruptive behavior.

Section 208. This section amends section 617 of the act by allowing the Secretary to use data and information obtained under more general authorities than IDEA, and by providing that the Secretary may not, through policy letters or other statements, establish a rule that is required for compliance with and eligibility under part B of IDEA.

Section 209. This section amends section 618 to eliminate the requirement for States to report data by disability category, instead requiring States to conduct studies and evaluations on the effectiveness of efforts to provide free appropriate public education and early intervention services. The section requires the Secretary to conduct a longitudinal study that measures provision and results of educational and transitional services to children with disabilities under this act, including studies of services and results in various placements. This section adds a requirement for a tracking and reporting system for children with disabilities who are expelled from school and provides for earmarked funding for this activity.

Section 210. This section amends section 619 of the act to conform preschool grants to other programs.

Section 211. This section clarifies SEA payment distributions to LEA's.

Section 212. This section clarifies applicability of definitions.

Section 213. This section makes conforming and technical amendments to the act.

Section 214. This section establishes the effective date, with some exceptions, for this title as January 1998.

Section 301. This section amends part C of the act by providing for grants to promote systems-change to improve educational and transitional services and results for children with disabilities.

Section 302. This section amends section 625 of the a act to reauthorize fiscal year 1997 funding for centers and services to meet special needs of individuals with disabilities.

Section 303. This section establishes the effective dates for this part as October 1, 1997.

Section 401. This section creates a new part D to authorize research/innovation and personnel preparation activities which are to be coordinated with system change activities funded under part C of the bill. Parts D and E of the act are consolidated. There are authorized to be appropriated $63 million for research/innovation and $81 million for personnel preparation activities for fiscal year 1998 and such sums as may be necessary for each of fiscal years 1999 through 2002.

Section 402. This section consists of conforming amendments.

Section 403. This section reauthorizes appropriations for fiscal year 1997 relating to personnel training.

Section 404. This section establishes the effective dates for this title, other than section 403, as October 1, 1997.

Section 501. This section creates a new part E authorizing parent training and information centers, technical assistance, support, dissemination, and technology and media activities to coordinate with part C of the bill. There are authorized to be appropriated $13.6 million for parent training and information centers, $36,434,000 for technical assistance, support and dissemination, and $30 million for technology and media activities for fiscal year 1998 and such sums as may be necessary for each of fiscal years 1999 through 2002.

Section 502. This section makes conforming amendments.

Section 503. This section reauthorizes funding for this title for fiscal year 1997.

Section 504. The effective dates of the amendments to this title shall be October 1, 1997.

Section 601. This section clarifies the basic policy of early intervention in this part of the act.

Section 602. This section adds definitions to the act.

Section 603. This section clarifies the purpose of the part H grants.

Section 604. This section makes technical amendments.

Section 605. This section repeals section 675 of IDEA (Continuing Eligibility).

Section 606. This section allows the use of paraprofessionals who are appropriately trained and supervised by qualified personnel, in accordance with State law, regulations, or written policy.

Section 607. This section of the bill makes technical and conforming changes to section 677, Individualized Family Service Plan (IFSP) of the act.

Section 608. This section clarifies State demonstrations of eligibility and provides that the transition conference could be conducted up to 6 months before the child is eligible for part B services.

Section 609. This section of the bill amends section 679 of IDEA (Uses of Funds) to provide greater flexibility in addressing the needs of "at-risk infants and toddlers" in those States not currently serving such children.

Section 610. This section amends section 615 (Procedural Safeguards) of the act by providing for the right to use mediation in accordance with section 615(e).

Section 611 of the bill amends section 682 of IDEA (State Interagency Coordinating Council), to include additional members, and strikes the obsolete provision in 682(g) regarding "existing councils."

Section 612. This section makes a conforming amendment to the act.

Section 613 of the bill amends section 684 of IDEA (Allocation of Funds), by requiring part H funds awarded to the outlying areas to be used to carry out part H, and makes technical changes to section 684(b) regarding distribution of funds to Tribes and tribal organizations, and provides for the operation of the Federal Interagency Coordinating Council, and provides for a panel of experts to study the definition of developmental delay.

Section 614 of the bill amends IDEA to clarify the focus of the Federal Interagency Coordinating Council includes at-risk infants and toddlers and their families, and the section clarifies membership categories. This section also amends the Functions of the Council (section 685(d)) by clarifying that the Council advises the Secretary of Education and the Secretaries of Health and Human Services, Defense, Agriculture, and Interior and the Commissioner of Social Security "in the performance of their responsibilities related to serving children from birth through age 5 who are eligible under this part or under part B."

Section 615. This section includes a provision requiring the Federal Interagency Coordinating Council to convene a panel of experts to recommend to the Secretary a definition of the term "developmental delay."

Section 616. This section authorizes appropriations for this part for fiscal year 1998 to fiscal year 2002.

Section 617. This section establishes the effective date for this title as October 1, 1997.

VIII. ADDITIONAL VIEWS OF SENATOR GREGG AND SENATOR COATS

The Individuals with Disabilities Education Act (IDEA) has been a tremendously successful piece of legislation. Congressional committee reports in the mid-1970's indicated that there were well over a million children with disabilities at the time who were not being educated at all. As this report points out, we have certainly come a long way since then.

Almost 20 years later in 1992, approximately 5 million children received special education and related services under part B and Chapter 1 programs. These statistics are relevant because they indicate how far we have come and suggest that the time has come for a reevaluation of the way in which we are carrying out the objectives which we all see as vitally important. And while we have heard from many parents of children with disabilities, and even some "graduates" of IDEA programs, who have impressed on us the vital importance of this legislation, we do not believe that the tremendous success of IDEA will be diminished if we take actions now to reduce some of the burdensome mandates required by this legislation.

FEDERAL MANDATES

We have no doubt that children with disabilities should be provided a free and appropriate public education and that the Federal Government has an important role to play in this area. We are concerned, however, that the definition of "appropriate" public education is getting broader and broader, and it is the States and localities who must bear the primary burden for providing this "appropriate" education with limited resources.

We have heard from school districts throughout our States who are struggling to provide a whole host of very costly related services, such as extensive psychological counseling and even catheterization. For example, this year Indiana schools received about $350 in Federal IDEA grants per child. This is about 8 percent of the total cost of their education. School administrators said that $350 will not cover referral nor evaluation costs, let alone provide services. The major burden for special education fiscal support has been shifted to State governments which provide about ⅔ of the cost, with local schools supporting about ⅓ of the total cost.

Yet, even though the fiscal burden falls on the states and local districts, it is the Federal government that is imposing prescriptive Federal mandates. While this reauthorization legislation does away with many of these mandates, the bill is still full of them. Senate Bill 1578 imposes several new substantive mandates.

We do not necessarily oppose these mandates. In fact, some of them actually seem quite reasonable, such as requiring State education agencies to establish a voluntary mediation system to help resolve disputes between schools and parents. But, we question why, in a time when we are moving away from Federal control and highly prescriptive mandates, we could not do more to remove the overly prescriptive provisions and heavy-handedness of this bill.

FEDERAL FUNDING

The Federal government has failed to fulfill its promise to fund 40 percent of the national average per-pupil expenditure under IDEA. In fact, the Federal contribution remains below 10 percent. For fiscal year 1995, Federal funding of Part B was $2.3 billion or, about 7 percent of the average per-pupil expenditure. A total of $11 billion—$12 billion would be required for Part B if appropriations matched the authorization level.

We realize that this committee does not appropriate funds for IDEA; however, this committee does mandate how funds under this act must be spent. We are concerned that this reauthorization bill does not take into account the lack of funding for IDEA by easing the requirements placed on State and local education agencies.

The Gregg sense-of-the-Senate amendment would have emphasized the importance of, and the Committee's belief that, the Federal Government should fully fund its promise of 40 percent. Unfortunately the amendment failed 7 to 9. It is our strong belief that new education programs, which end up competing with special education for funding, should not be enacted until IDEA is fully funded. Goals 2000 is one such program. Enacted during the 103rd Congress, Goals 2000 is receiving $350 million for fiscal year 1996, while IDEA continues to be severely under-funded. We are concerned about the effect on local schools and communities as they continue to struggle with fulfilling the requirements under this act without the promised resources.

IX. ADDITIONAL VIEWS OF SENATOR GORTON

I came to this issue through listening to the parents, teachers, and school administrators in Washington State who were frustrated with a Federal law that imposed significant costs, administrative burdens, and left little flexibility to maintain a safe learning environment. Like these groups, I fully support and recognize the benefits of the Individuals with Disabilities Education Act (IDEA) to the many students who were not previously accommodated by the public school system. Through the efforts of local schools, parents and teachers, the IDEA has been largely successful in its mission of providing a public education to children with disabilities. However, I remain concerned by the micro management of local schools on the part of Congress, which seems very happy to provide regulations but not to provide the means necessary to make those regulations a reality.

Some of the problems with IDEA have become more pronounced with the passage of time. Twenty years ago no one could have imagined the type of violence students and teachers are faced with today. Educators must be able to take reasonable measures to protect all students, teachers, and other school personnel from harm while still meeting the needs of children with disabilities. I would like to commend my colleagues and those in the education and disability advocacy community for their work on the difficult and often emotional issue of school discipline. This legislation makes progress, especially in the area of dangerous weapons and drugs, toward ensuring that all children, disabled and nondisabled, are safe at school.

Just as the safety environment in our schools has, unfortunately, changed for the worse, so has the legal climate. The growing body of litigation surrounding IDEA is one of the unintended and costly consequences of this law. Indeed, in its report for 1994, the Advisory Commission on Intergovernmental Relations cited IDEA as the fourth most litigious law in its study. Statistics from The Individuals with Disabilities Education Law Report show that 61 percent of all special education litigation occurred in the 6 years between 1989 and 1995. Schools are diverting scarce resources away from the classroom as they fend off frivolous law suits. The consequences are potentially devastating to the school districts that provide educational services to all of our children. I believe our teachers, administrators, and principals, on the whole, act in good faith to implement what is an exceptionally complex and procedural law. IDEA is already one of the largest under funded Federal mandates; it is wrong for courts to impose even greater financial burdens on these financially strapped districts as punishment for trying to do their job. This issue should be more thoroughly addressed. I expect there will be significant discussion on the Senate floor regarding this matter.

X. CHANGES IN EXISTING LAW

In compliance with rule XXVI, paragraph 12, of the Standing Rules of the Senate, the following provides a print of the statute or the part or section thereof to be amended or replaced (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

INDIVIDUALS WITH DISABILITIES EDUCATION ACT

* * * * * * *

PART A—GENERAL PROVISIONS

SHORT TITLE; STATEMENT OF FINDINGS AND PURPOSE

[SEC. 601. (a) This title may be cited as the "Individuals with Disabilities Education Act".

[(b) The Congress finds that——

[(1) there are more than eight million children with disabilities in the United States today;

[(2) the special educational needs of such children are not being fully met;

[(3) more than half of the children with disabilities in the United States do not receive appropriate educational services which would enable them to have full equality of opportunity;

[(4) one million of the children with disabilities in the United States are excluded entirely from the public school system and will not go through the educational process with their peers;

[(5) there are many children with disabilities throughout the United States participating in regular school programs whose disabilities prevent them from having a successful educational experience because their disabilities are undetected;

[(6) because of the lack of adequate services within the public school system, families are often forced to find services outside the public school system, often at great distance from their residence and at their own expense;

[(7) developments in the training of teachers and in diagnostic and instructional procedures and methods have advanced to the point that, given appropriate funding, State and local educational agencies can and will provide effective special education and related services to meet the needs of children with disabilities;

[(8) State and local educational agencies have a responsibility to provide education for all children with disabilities, but present financial resources are inadequate to meet the special educational needs of children with disabilities; and

[(9) it is in the national interest that the Federal Government assist State and local efforts to provide programs to meet the educational needs of children with disabilities in order to assure equal protection of the law.

[(c) It is the purpose of this Act to assure that all children with disabilities have available to them, within the time periods specified in section 612(2)(B), a free appropriate public education which emphasizes special education and related services designed to meet their unique needs, to assure that the rights of children with disabilities and their parents or guardians are protected, to assist States and localities to provide for the education of all children with disabilities, and to assess and assure the effectiveness of efforts to educate children with disabilities.]

SEC. 601. SHORT TITLE; FINDINGS; PURPOSES.

(a) SHORT TITLE.—This title may be cited as the "Individuals with Disabilities Education Act".

(b) FINDINGS.—With respect to this Act, Congress finds the following:

(1)(A) That disability is a natural part of the human experience and in no way diminishes the right of individuals to fully participate in all aspects of American society, including education.

(B) That the right to equal educational opportunities for all children with disabilities is guaranteed by the equal protection clause of the 14th amendment to the United States Constitution.

(C) That improving educational results for children with disabilities is an essential element in ensuring equality of opportunity in all aspects of society.

(D) That it is in the national interest that students with disabilities leave school with the skills necessary to be included and integrated in the economic and social fabric of society and to live independently.

(2) That prior to the enactment of the Education for All Handicapped Children Act of 1975 (Public Law 94-142), 1,000,000 children with disabilities in the United States were excluded entirely from the public school system, and more than one-half of all children with disabilities in the United States did not receive appropriate educational services, either because their disabilities were undetected, or because of the lack of adequate services within the public school system.

(3) That since the enactment of the Education for All Handicapped Children Act of 1975 (Public Law 94-142), significant progress has been made in addressing problems that existed at the time the law was enacted. Progress has been made in the following manner:

(A) Every State now ensures a free appropriate public education to all children with disabilities within the State between the ages of 3 and 18, and most States extend that provision of a free appropriate public education through age 21.

(B) Over 5,000,000 children with disabilities are receiving special education and related services.

(C) All States now provide early intervention services to infants and toddlers with disabilities from birth through age 2 and to families of such infants and toddlers.

(4) That based on 20 years of experience and research in the education of children with disabilities, there is a general recognition of the following:

(A) The provision of quality education and services to children with disabilities must be based on an individualized assessment of each child's unique needs and abilities.

(B) To the maximum extent appropriate, children with disabilities should be educated with children who are not disabled and children with disabilities should be removed from the regular educational environment only when the nature and severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

(C) Students with disabilities achieve at significantly higher levels when schools have high expectations (and establish high goals) for such students, ensure the access of such students to the general curriculum (whenever appropriate), and provide such students with the necessary services and supports.

(D) That including children with disabilities in State and districtwide assessment systems is an effective accountability mechanism and a critical strategy for improving educational results for such children.

(E) The provisions of this Act should be aligned with general educational reforms with respect to the improvement of education for all children, so that children with disabilities have the opportunity to benefit from such reforms.

(F) Parent participation is a crucial component in the education of children with disabilities, and parents should have meaningful opportunities, through appropriate training, dissemination of information and other supports, to participate as partners with teachers and other school staff in assisting their children to achieve to high standards.

(G) School administrators must have the resources and skills needed to ensure that school environments are safe and conducive to learning.

(5)(A) That State and local educational agencies must be responsive to the increasing racial, ethnic, and linguistic diversity that prevails in the Nation's public schools today.

(B)(i) Greater efforts are needed to prevent the intensification of problems connected with inappropriately identifying and mislabeling children from minority backgrounds as children with disabilities.

(ii) More minority children continue to be served in special education than would be expected from the percentage of such children in the general school population.

(iii) Poor African American students are 2.5 times more likely to be identified by their school as mentally retarded than are their white counterparts, and such students are also more likely to be educated in segregated settings.

(iv) A disproportionate number of such students drop out of school, fail to enroll in postsecondary programs, and fail to participate in competitive long-term employment.

(v) Disproportionality in the identification of such students as children with disabilities may be explained in part by the relationship between poverty and disability, which is well documented. Poor prenatal care and nutrition are factors that contribute to higher rates of disability within minority populations. However, disproportionality may be due to misclassification of minority children as disabled and inappropriate placement of minority children, particularly in separate settings, which raises civil rights concerns.

(C) Children with limited English proficiency continue to be underidentified as needing special education services than would be expected from the percentage of such children in the general school population.

(D) Based on 20 years of experience in both general and special education, there is general recognition today that the problems associated with ensuring an appropriate education for children from diverse backgrounds can be effectively addressed when the following are done:

(i) The procedures used for referring and evaluating children with disabilities include appropriate safeguards to prevent the overidentification or underidentification of minority students requiring special education.

(ii) Prereferral intervention strategies are adopted, as appropriate, especially in elementary schools.

(iii) Services, supports, and other assistance are provided in a culturally sensitive manner.

(iv) Greater efforts are made to improve post-school results among minority students with disabilities.

(6) That it is in the national interest that the Federal Government has a role with respect to the following:

(A) Assisting State and local efforts to educate children with disabilities in order to improve educational and transitional results for such children, and to ensure equal protection of the law.

(B) Assisting States in the provision of early intervention services.

(C) Promoting the improvement of educational and transitional services and results for children with disabilities and early intervention services for infants and toddlers with disabilities by supporting systems change activities carried out by the State educational agency, coordinated research and personnel preparation, coordinated technical assistance, dissemination, and support, and technology development and media services.

(c) PURPOSES.—The purposes of this Act are to—

(1)(A) ensure that all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet the unique needs of such children and enable such children to lead productive, independent adult lives;

(B) ensure that the rights of children with disabilities and their parents are protected; and

(C) assist States and localities to provide for the education of all children with disabilities;

(2) assist States in the implementation of a statewide, comprehensive, coordinated, multidisciplinary, interagency system of early intervention services for infants and toddlers with disabilities and their families;

(3) promote the improvement of educational and transitional services and results for children with disabilities and early intervention services for infants and toddlers with disabilities by supporting—

(A) systems change activities carried out by State educational agencies in partnership with other interested parties;

(B) coordinated research and personnel preparation; and

(C) coordinated technical assistance, dissemination, and support, and technology development and media services; and

(4) assess and promote the effectiveness of efforts to educate children with disabilities and to provide early intervention services for infants and toddlers with disabilities.

[DEFINITIONS]

SEC. 602. DEFINITIONS.

[Sec. 602. (a) As used in this title—

[(1)(A) The term "children with disabilities" means children—**]**

(a) TERMS.—Except as otherwise provided, the following terms have the following meanings as used in this Act:

[(25)**]** *(1)* **[**The term**]** *ASSISTIVE TECHNOLOGY DEVICE.—The term* "assistive technology device" means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of individuals with disabilities.

[(26)**]** *(2)* **[**The term**]** *ASSISTIVE TECHNOLOGY SERVICE.—The term* "assistive technology service" means any service that directly assists an individual with a disability in the selection, acquisition, or use of an assistive technology device. Such term includes—

(3) BEHAVIOR MANAGEMENT PLAN.—The term "behavior management plan" means a plan, developed by the State educational agency or local educational agency, consisting of strategies and services to address the behavior of a child with a disability and to help the child learn appropriate behavior in the school and other community-based educational settings.

[(1)**]** *(4) CHILD WITH A DISABILITY; CHILD WITH A DISABILITY AGED 3 THROUGH 5; CHILDREN WITH DISABILITIES.—*

(A) *CHILD WITH A DISABILITY.—The term "child with a disability" means a child—*

(i) with mental retardation, **[**hearing impairments**]** *a hearing impairment* including deafness, **[**speech or language impairments**]** *a speech or language impair-*

ment, a visual impairment, visual impairments including blindness, serious emotional disturbance, [orthopedic impairments] *orthopedic impairment,* autism, traumatic brain injury, [other health impairments, or specific learning disabilities] *other health impairment, or a specific learning disability*; and

(ii) who, by reason thereof, [need] *needs* special education and related services.

[(B) the term "children with disabilities" for children aged 3 to 5, inclusive, may, at the State's discretion, include children—]

(B) CHILD WITH A DISABILITY AGED 3 THROUGH 5.—At the discretion of the State, the term "child with a disability" includes a child aged 3 through 5—;

[(i) experiencing developmental delays] *(i) who is experiencing a developmental delay,* as defined by the State and as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas: physical development, cognitive development, communication development, social or emotional development, or adaptive development; and

(ii) who, by reason thereof, [need] *needs* special education and related services.

(C) CHILDREN WITH DISABILITIES.—The term "children with disabilities" means more than 1 child with a disability.

[(4)] *(5)* [The term] *CONSTRUCTION.—The term* "construction", except where otherwise specified, means (A) erection of new or expansion of existing structures, and the acquisition and installation of equipment therefor; or (B) acquisition of existing structures not owned by any agency or institution making application for assistance under this title; (C) remodeling or alteration (including the acquisition, installation, modernization, or replacement of equipment) of existing structures; or (D) acquisition of land in connection with the activities in clauses (A), (B), and (C); or (E) a combination of any two or more of the foregoing.

(6) DISABILITY.—The term "disability", except with respect to an infant or toddler with a disability, means an impairment or other condition described in paragraph (4) (relating to the definition of a child with a disability).

[(23)] *(7)* [The term "intermediate educational unit" means] *EDUCATIONAL SERVICE AGENCY.—The term "educational service agency" means* any public authority, other than a [local educational agency,] *local educational agency described in subparagraphs (A) and (B) of paragraph (19),* which is under the general supervision of a State educational agency, which is established by State law for the purpose of providing free public education on a regional basis, and which provides special education and related services to children with disabilities within that State.

[(9)] *(8)* [The term] *ELEMENTARY SCHOOL.—The term* "elementary school" means a day or residential school which provides elementary education, as determined under State law.

[(5)] *(9)* [The term] *EQUIPMENT.—The term* "equipment" includes machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, and includes all other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furniture, printed, published, and audio-visual instructional materials, telecommunications, sensory, and other technological aids and devices, and books, periodicals, documents, and other related materials.

[(21)] *(10)* [The term] *EXCESS COSTS.—The term* "excess costs" means those costs which are in excess of the average annual per student expenditure in a local educational agency during the preceding school year for an elementary or secondary school student, as may be appropriate, and which shall be computed after deducting—

(A)(i) under [this part] *part B*

(ii) [under title I] *under part A of title I* of the Elementary and Secondary Education Act of 1965, or

(iii) under [title VII] *part A of title VII* of the Elementary and Secondary Education Act of 1965, and

(B) any State or local funds expended for programs that would qualify for assistance under [such part, chapter, or title]. *a part referred to in subparagraph (A)*

[(18)] *(11)* [The term] *FREE APPROPRIATE PUBLIC EDUCATION.—The term* "free appropriate public education" means special education and related services that—

* * * * * * *

(D) are provided in conformity with the individualized education program [required under section 614(a)(5)] *requirements under subsections (d) through (i) of section 614 (as amended by section 204 of the Individuals with Disabilities Education Act Amendments of 1996)*.

(12) GENERAL EDUCATION CURRICULUM.—The term "general education curriculum" means the curriculum adopted by the local educational agency for all children from preschool through secondary school.

[(13) The term "research and related purposes" means research, research training (including the payment to stipends and allowances), survey, or demonstrations in the field of education of children with disabilities, or the dissemination of information derived therefrom, including (but without limitation) experimental schools.]

(13) INAPPROPRIATELY IDENTIFIED.—The term "inappropriately identified" with respect to population means a population of students from racial or ethnic minority backgrounds in which students are overidentified or underidentified as having disabilities.

[(24) (A) The term "public or private nonprofit agency or organization" includes an Indian tribe and the Bureau of Indian Affairs of the Department of the Interior (when acting on behalf of schools operated by the Bureau for children and students on Indian reservations) and tribally controlled schools funded by the Department of the Interior.

[(B) The terms "Indian", "American Indian", and "Indian American" mean an individual who is a member of an Indian tribe.

[(C) The term "Indian tribe" means any Federal or State Indian tribe, band, rancheria, pueblo, colony, or community, including any Alaskan native village or regional village corporation (as defined in or established under the Alaska Native Claims Settlement Act).]

[(24)] *(14) INDIAN; INDIAN TRIBE.—*

(A) INDIAN.—The term "Indian" means an individual who is a member of an Indian tribe.

(B) INDIAN TRIBE.—The term "Indian tribe" means any Federal or State Indian tribe, band, rancheria, pueblo, colony, or community, including any Alaska Native village or regional village corporation (as defined in or established under the Alaska Native Claims Settlement Act).

[(20)] *(15) INDIVIDUALIZED EDUCATION PROGRAM; IEP.—The term "individualized education program" and the term "IEP" mean a written statement for each child with a disability that is developed, reviewed, and revised in accordance with subsections (d) through (i) of section 614 (as amended by section 204 of the Individuals with Disabilities Education Act Amendments of 1996).*

(16) INDIVIDUALIZED FAMILY SERVICE PLAN; IFSP.—The term "individualized family service plan" and the term "IFSP" mean a written plan for providing early intervention services to each infant and toddler with a disability that meets the requirements of section 677(d).

(17) INFANT OR TODDLER WITH A DISABILITY; INFANTS AND TODDLERS WITH DISABIITIES.—The terms "infant or toddler with a disability" and "infants and toddlers with disabilities" have the meanings given the terms in section 672.

[(11) The term "institution of higher education" means an educational institution in any State which—

[(A) admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;

[(B) is legally authorized within such State to provide a program of education beyond high school;

[(C) provides an educational program for which it awards a bachelor's degree, or provides not less than a two-year program which is acceptable for full credit toward such a degree, or offers a two-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or other technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge;

[(D) is a public or other nonprofit institution; and

[(E) is accredited by a nationally recognized accrediting agency or association listed by the Secretary pursuant to this paragraph or, if not so accredited, is an institution whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited: Provided, however, That in the case of an institution offering a two-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge, if the Secretary determines that there is no nationally recognized accrediting agency or association qualified to accredit such institutions, the Secretary shall appoint an advisory committee, composed of persons specially qualified to evaluate training provided by such institutions, which shall prescribe the standards of content, scope, and quality which must be met in order to qualify such institutions to participate under this Act and shall also determine whether particular institutions meet such standards. For the purposes of this paragraph the Secretary shall publish a list of nationally recognized accrediting agencies or associations which the Secretary determines to be reliable authority as to the quality of education or training offered.

[(F) [Deleted]

[The term includes community colleges receiving funding from the Secretary of the Interior under the Tribally Controlled Community College Assistance Act of 1978.]

[*(11)*] *(18)* *INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education"—*

(A) has the meaning given to such term by section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)); and

(B) includes any community college receiving funding from the Secretary of the Interior under the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801 et seq.).

[(8) The term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term also includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.]

[*(8)*] *(19)* *LOCAL EDUCATIONAL AGENCY.—The term "local educational agency" means—*

(A) a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for—

(i) public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State; or

(ii) a combination of school districts or counties as are recognized in a State as an administrative agency for the public elementary or secondary schools of the State;

(B) any other public institution or agency having administrative control and direction of a public elementary or secondary school; or

(C) an educational service agency, as defined in paragraph (7).

[(22)**]** *(20)* **[**The term**]** *NATIVE LANGUAGE.—The term* "native language" has the meaning given that term by **[**section 7003(a)(2)**]** *section 7501(11)* of the Bilingual Education Act.

[(12)**]** *(21)* **[**The term**]** *NONPROFIT.—The term* "nonprofit" as applied to a school, agency, organization, or institution means a school, agency, organization, or institution owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(22) OUTLYING AREAS.—The term "outlying areas" means the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, Republic of the Marshall Islands, Federated States of Micronesia, and the Republic of Palau.

(23) PARENT.—The term "parent" includes a legal guardian.

[(17)**]** *(24)* **[**The term**]** *RELATED SERVICES.—The term* "related services" means transportation, and such developmental, corrective, and other supportive services (including **[**speech pathology and audiology**]** *speech-language pathology services and audiology services*, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, social work services, counseling services, including **[**rehabilitation counseling,**]** *rehabilitation counseling, orientation and mobility services*, and medical services, except that such medical services shall be for diagnostic and evaluation purposes only) as may be required to assist a child with a disability to benefit from special education, and includes the early identification and assessment of disabling conditions in children.

[(10)**]** *(25)* **[**The term**]** *SECONDARY SCHOOL.—The term* "secondary school" means a day or residential school which provides secondary education, as determined under State law, except that it does not include any education provided beyond grade 12.

[(14)**]** *(26)* **[**The term**]** *SECRETARY.—The term* "Secretary" means the Secretary of Education.

[(16)**]** *(27)* **[**The term**]** *SPECIAL EDUCATION.—The term* "special education" means specially designed instruction, at no cost to parents **[**or guardians**]**, to meet the unique needs of a child with a disability including—

[(15) The term "children with specific learning disabilities" means those children who have a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which disorder may manifest itself in imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations. Such disorders include such conditions as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. Such term does not include children who have learning problems which are primarily the result of visual, hearing, or motor disabilities, of mental retardation, of emotional disturbance, or of environmental, cultural, or economic disadvantage.]

[(15)] *(28) SPECIFIC LEARNING DISABILITY.—The term "specific learning disability"—*

(A) means a disorder—

(i) in one or more of the basic psychological processes involved in understanding or in using language, spoken or written; and

(ii) that may manifest itself in imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations;

(B) includes such conditions as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia; and

(C) does not include a learning problem that is primarily the result of visual, hearing, or motor disabilities, of mental retardation, of emotional disturbance, or of environmental, cultural, or economic disadvantage.

[(6) The term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or Palau (until the Compact of Free Association with Palau takes effect pursuant to section 101(a) of Public Law 99–658.]

[*(6)*] *(29) STATE.—The term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, and each of the outlying areas.*

[(7)] *(30)* [The term] *STATE EDUCATIONAL AGENCY.—The term* "State educational agency" means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

(31) SUPPLEMENTARY AIDS AND SERVICES.—The term "supplementary aids and services" means aids, services, and other supports that are provided to enable children with disabilities to be educated with nondisabled children to the maximum extent appropriate, in accordance with section 612(a)(5) (as amended by section 202 of the Individuals with Disabilities Education Act Amendments of 1996).

(32) SYSTEMS CHANGE ACTIVITIES; SYSTEMS CHANGE OUTCOMES.—

(A) SYSTEMS CHANGE ACTIVITIES.—The term "systems change activities" means efforts to design, implement, and evaluate strategies and activities leading to systems change outcomes.

(B) SYSTEMS CHANGE OUTCOMES.—The term "systems change outcomes" means systemswide changes in policies, procedures, practices, training, or use of personnel, parents, and school-age peers of children with disabilities that benefit and improve the early intervention, educational, and transitional services and results of children with disabilities.

[19] *(33)* * * *

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(34) TRANSITIONAL SERVICES.—The term "transitional services" includes transition services.

[(27) The term "underrepresented" means populations such as minorities, the poor, the limited English proficient, and individuals with disabilities.]

[*(27)*] *(35)* UNSERVED AND UNDERSERVED.—*The terms "unserved" and "underserved", with respect to populations include populations such as individuals with disabilities who are from racial and ethnic minority backgrounds, who are poor individuals, who are individuals with limited English proficiency, and who are individuals from underserved geographic areas, both urban and rural.*

* * * * * * *

SEC. 602. [(b) For purposes of part C of this title, "youth with a disability" means any child with a disability (as defined in subsection (a)(1) who—

[(1) is twelve years of age or older; or

[(2) is enrolled in the seventh or higher grade in school. 20 USCS Sec. 1402 (1995)]

(b) REFERENCES TO ACT OR TITLE.—If a provision of this title refers to the term "this title" or "this Act", the provision shall be deemed to refer to the Individuals with Disabilities Education Act.

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SEC. 603 * * *

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(c) Notwithstanding section 1342 of title 31, United States Code, the Secretary is authorized to accept voluntary and uncompensated services in furtherance of the purposes of this Act.

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[ACQUISITION OF EQUIPMENT AND CONSTRUCTION OF NECESSARY FACILITIES

[SEC. 605. (a) In the case of any program authorized by this title, if the Secretary determines that such program will be improved by permitting the funds authorized for such program to be used for the acquisition of equipment and the construction of necessary facilities, the Secretary may authorize the use of such funds for such purposes.

[(b) If, within twenty years after the completion of any construction (except minor remodeling or alteration) for which funds have been paid pursuant to a grant or contract under this title, the facility constructed ceases to be used for the purposes for which it was constructed, the United States, unless the Secretary determines that there is good cause for releasing the recipient of the funds from its obligation, shall be entitled to recover from the applicant or other owner of the facility an amount which bears the same ratio to the then value of the facility as the amount of such Federal funds bore to the cost of the portion of the facility financed with such funds. Such value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which the facility is situated.]

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[GRANTS FOR THE REMOVAL OF ARCHITECTURAL BARRIERS

[SEC. 607. (a) The Secretary is authorized to make grants and to enter into cooperative agreements with the Secretary of the Interior and with State educational agencies to assist such agencies in making grants to local educational agencies or intermediate educational units to pay part or all of the cost of altering existing buildings and equipment in accordance with standards promulgated under the Act entitled "An Act to insure that certain buildings financed with Federal funds are so designed and constructed as to be accessible to the physically handicapped", approved August 12, 1968.

[(b) For the purposes of carrying out the provisions of this section, there are authorized to be appropriated such sums as may be necessary.]

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REQUIREMENTS FOR PRESCRIBING REGULATIONS

SEC. 608. [(a) For purposes of complying with section 431(b) of the General Education Provisions Act with respect to regulations promulgated under part B of this Act, the thirty-day period under such section shall be ninety days.] *(a) The Secretary shall provide a public comment period of at least 90 days on any regulation proposed under part B for which a time period for an opportunity for public comment is otherwise required.*

* * * * * * *

ELIGIBILITY FOR FINANCIAL ASSISTANCE

[SEC. 609. Effective for fiscal years for which the Secretary may make grants under section 619(b)(1), no State or local educational agency or intermediate educational unit or other public institution or agency may receive a grant under parts C through G which relate exclusively to programs, projects, and activities pertaining to children aged three to five, inclusive, unless the State is eligible to receive a grant under section 619(b)(1).]

SEC. 609. ELIGIBILITY FOR FINANCIAL ASSISTANCE.

The Secretary may not make a grant under parts C through E to a State, or to any local educational agency or other public institution or agency in the State, that relates exclusively to programs, projects, and activities pertaining to children aged 3 through 5, unless the State is eligible to receive a grant under section 619 (as *amended by section 210 of the Individuals with Disabilities Education Act Amendments of 1996).*

* * * * * * *

ADMINISTRATIVE PROVISIONS APPLICABLE TO PARTS C THROUGH G AND SECTION 618

[SEC. 610. (a) The Secretary shall maintain a process for developing a program plan for the implementation of each of the programs authorized under section 618 and parts C through G. The plan shall include program goals, objectives, strategies, and priorities. In conducting the process, the Secretary shall involve individuals with disabilities, parents, professionals, and representatives of State and local educational agencies, private schools, institutions of higher education, and national organizations who have interest and expertise in the program.

[(b) In awarding grants, contracts, and cooperative agreements under part C through G, the Secretary, where appropriate, shall require applicants to demonstrate how they will address, in whole or in part, the needs of infants, toddlers, children, and youth with disabilities from minority backgrounds.

[(c) In awarding grants, contracts, or cooperative agreements under parts C through G the Secretary, where appropriate, may require applicants to address the various transitions that a child with a disability may face throughout such child's years in school, including—

[(1) the transition from medical care to special education for those children with disabilities, including chronic health impairments, who may require individualized health-related services to enable such children to participate in, or benefit from, special education;

[(2) the transition between residential placement and community-based special education services; and

[(3) the transition between a separate educational placement and the regular classroom setting.

[(d) The Secretary shall conduct directly, or by contract or cooperative agreement and appropriate entities, independent evaluations of the programs authorized under section 618 and under parts C through G, and may for such purpose use funds appropriated to carry out such provisions. The findings of the evaluators shall be utilized in the planning process under subsection (a) for the purpose of improving the programs. The evaluations shall determine the degree to which the program is being conducted consistent with the program plan and meeting its goals and objectives. The Secretary shall submit to the appropriate committees of the Congress the results of the evaluations required by this subsection.

[(e) The Secretary shall report on the program plans required in subsection (a) and findings from the evaluations under subsection (d) in the annual report to the Congress required under section 618.

[(f) The Secretary develop effective procedures for acquiring and disseminating information derived from programs and projects under parts C through G, as well a information generated from studies conducted and data collected under section 618.

[(g) The Secretary shall, where appropriate, require recipients of all grants, contracts, and cooperative agreements under parts C through G to prepare reports describing their procedures, findings, and other relevant information in a form that will maximize the dissemination and use of such procedures, findings, and information. The Secretary shall require their delivery, as appropriate, to the Regional and Federal Resource Centers, the Clearinghouses, and the Technical Assistance to Parents Program (TAPP) assisted under parts C and D, as well as the National Diffusion Network, the ERIC Clearinghouse on the Handicapped and Gifted, and the Child and Adolescent Service Systems Program (CASSP) under the National Institute of Mental health, appropriate parent and professional organizations, organizations representing individuals with disabilities, and such other networks as the Secretary may determine to be appropriate.

[(h)(1) The Secretary shall convene, in accordance with paragraph (2), panels of experts who are competent, by virtue of their training or experience, to evaluate proposals under section 618 and parts C through G.

[(2) Panels under paragraph (1) shall be composed of individuals with disabilities, parents of such individuals, individuals from the fields of special education, related services, and other relevant disciplines.

[(3) The Secretary shall convene panels under paragraph (1) for any application that includes a total funding request exceeding $60,000 and may convene or otherwise appoint panels for applications that include funding requests that are less than such amount.

[(4) Panels under paragraph (1) shall include a majority of non-Federal members. Such non-Federal members shall be provided travel and per diem not to exceed the rate provided to other educational consultants used by the Department of Education and shall be provided consultant fees at such a rate.

[(5) The Secretary may use funds available under section 618 and parts C through G to pay expenses and fees of non-Federal members of the panels.

[(i) The Secretary shall conduct at least 1 site visit for each grant, contract, and cooperative agreement receiving $300,000 or more annually under parts C through G.

[(j)(1) With respect to the discretionary programs authorized by parts C through G, the Congress finds as follows:

[(A)(i) The Federal Government must be responsive to the growing needs of an increasingly more diverse society. A more equitable allocation of resources is essential for the Federal Government to meet its responsibility to provide an equal educational opportunity for all individuals.

[(ii) America's racial profile is rapidly changing. While the rate of increase for white Americans is 3.2 percent, the rate of increase for racial and ethnic minorities is much higher: 38.6 percent for Hispanics, 14.6 percent for African-Americans, and 40.1 percent for Asians and other ethnic groups.

[(iii) By the year 2000, this Nation will have 260,000,000 people, one of every three of whom will be either African-American, Hispanic, or Asian-American.

[(iv) Taken together as a group, it is a more frequent phenomenon for minorities to comprise the majority of public school students. Large city school populations are overwhelmingly minority, e.g., Miami, 71 percent; Philadelphia, 73 percent; Baltimore, 80 percent.

[(v) Recruitment efforts within special education at the level of preservice, continuing education, and practice must focus on bringing larger numbers of minorities into the profession in order to provide appropriate practitioner knowledge, role models, and sufficient manpower to address the clearly changing demography of special education.

[(vi) The limited English proficient population is the fastest growing in our Nation, and the growth is occurring in many parts of our Nation. In the Nation's 2 largest school districts, limited-English students make up almost half of all students initially entering school at the kindergarten level. Studies have documented apparent discrepancies in the levels of referral and placement of limited-English proficient children in special education. The Department of Education has found that services provided to limited-English proficient students often do not respond primarily to the pupil's academic needs. These trends pose special challenges for special education in the referral, assessment, and services for our Nation's students from non-English language backgrounds.

[(B)(i) Greater efforts are needed to prevent the intensification of problems connected with mislabeling and high dropout rates among minority children with disabilities.

[(ii) More minority children continue to be served in special education than would be expected from the percentage of minority students in the general school population.

[(iii) Poor African-American children are 3.5 times more likely to be identified by their teacher as mentally retarded than their white counterpart.

[(iv) Although African-American represents 12 percent of elementary and secondary enrollments, they constitute 28 percent of total enrollments in special education.

[(v) The drop out rate is 68 percent higher for minorities than for whites.

[(vi) More than 50 percent of minority students in large cities drop out of school.

[(C)(i) The opportunity for full participation in awards for grants and contracts; boards of organizations receiving funds under this Act; and peer review panels; and training of professionals in the area of special education by minority individuals, organizations, and historically Black colleges and universities is essential if we are to obtain greater success in the education of minority children with disabilities.

[(ii) In 1989, of the 661,000 college and university professors, 4.6 percent were African-American and 3.1 percent were Hispanic. Of the 3,600,000 teachers, prekindergarten through high school, 9.4 percent were African-American and 3.9 percent were Hispanic.

[(iii) Students from minority groups comprise more than 50 percent of K–12 public school enrollment in seven States yet minority enrollment in teacher training programs is less than 15 percent in all but six States.

[(iv) As the number of African-American and Hispanic students in special education increases, the number of minority teachers and related service personnel produced in our colleges and universities continues to decrease.

[(v) Ten years ago, 12.5 percent of the United States teaching force in public elementary and secondary schools were members of a minority group. Minorities comprised 21.3 percent of the national population at that time and were clearly underrepresented then among employed teachers. Today, the elementary and secondary teaching force is 3 to 5 percent minority, while one-third of the students in public schools are minority children.

[(vi) As recently as 1984–85, Historically Black Colleges and Universities (HBCUs) supplied nearly half of the African-American teachers in the Nation. However, in 1988, HBCUs received only 2 percent of the discretionary funds for special education and related services personnel training.

[(vii) While African-American students constitute 28 percent of total enrollment in special education, only 11.2 percent of individuals enrolled in preservice training programs for special education are African-American.

[(viii) In 1986–87, of the degrees conferred in education at the B.A., M.A., and Ph.D levels, only 6, 8, and 8 percent, respectively, were awarded to African-American or Hispanic students.

[(D) Minorities and underserved persons are socially disadvantaged because of the lack of opportunities in training and educational programs, undergirded by the practices in the private sector that impede their full participation in the mainstream of society.

[(2) The Congress further finds that these conditions can be greatly improved by providing opportunities for the full participation of minorities through the implementation of the following recommendations:

[(A) Implementation of a policy to mobilize the Nation's resources to prepare minorities for careers in special education and related services.

[(B) This policy should focus on—

[(i) the recruitment of minorities into teaching; and

[(ii) financially assisting HBCUs and other institutions of higher education (whose minority student enrollment is at least 25 percent) to prepare students for special education and related service careers.

[(C)(i) The Secretary shall develop a plan for providing outreach services to the entities described in clause (ii) in order to increase the participation of such entities in competitions for grants, contracts, and cooperative agreements under any of parts C through G.

[(ii) The entities referred to in clause (i) are—

[(I) Historically Black Colleges and Universities and other institutions of higher education whose minority student enrollment is at least 25 percent;

[(II) eligible institutions as defined in section 312 of the Higher Education Act of 1965;

[(III) nonprofit and for-profit agencies at least 51 percent owned or controlled by one or more minority individuals; and

[(IV) underrepresented populations.

[(iii) For the purpose of implementing the plan required in clause (i), the Secretary shall, for each of the fiscal years 1991 through 1994, expend 1 percent of the funds appropriated for the fiscal year involved for carrying out parts C through G.

[(3) The Secretary shall exercise his/her utmost authority, resourcefulness, and diligence to meet the requirements of this subsection.

[(4) Not later than January 31 of each year, starting with fiscal year 1991, the Secretary shall submit to Congress a final report on the progress toward meeting the goals of this subsection during the preceding fiscal year. The report shall include—

[(i) a full explanation of any progress toward meeting goals of this subsection; and

[(ii) a plan to meet the goals, if necessary.]

SEC. 610. ADMINISTRATIVE PROVISIONS FOR DISCRETIONARY ASSISTANCE PROGRAMS.

(a) Findings With Respect to Addressing Diversity Under Parts D and E.—With respect to this section and parts D and E, Congress finds the following:

(1)(A) The Federal Government must be responsive to the growing needs of an increasingly more diverse society. A more equitable allocation of resources is essential for the Federal Government to meet its responsibility to provide an equal educational opportunity for all individuals.

(B) Recent data indicate that the number of African American and Hispanic children in schools, and in special education, continues to rise, and the number of minority teachers and related services personnel produced in the colleges and universities of the United States continues to decrease.

(2) There is a compelling national interest in aiding institutions of higher education that have historically served students who have been denied access to postsecondary education because of race or national origin and whose participation in the United States system of higher education is in the interest of the United States so that the access to, and the quality of, postsecondary education are enhanced for all students.

(3)(A) Historically Black Colleges and Universities and other institutions of higher education with substantial minority enrollments have an important role in the development of a professional workforce in special education and related services that reflects the full participation of all members of society by providing access and high-quality education to low-income and minority students who will enter the field of special education and other related fields. Upon completing their education at such colleges and universities and institutions, many low-income and minority students become teachers or professionals in related fields and provide services to children with disabilities

in inner-city urban and rural areas that have experienced significant shortages in qualified personnel.

(B) Recent data indicate that the Historically Black Colleges and Universities enroll nearly 50 percent of the African American teacher trainees in the United States. However, during the time period covered by the data, such colleges and universities received only 4 percent of the discretionary funds for special education and related services personnel training under this Act.

(b) COMPREHENSIVE PLAN.—

(1) IN GENERAL.—The Secretary shall develop and implement a comprehensive plan for activities carried out under parts D and E in order to enhance the provision of educational, related, and early intervention services to children with disabilities under parts B and H. Such plan shall include mechanisms to address early intervention, educational, and transitional needs identified by States in applications submitted for systems change grants under part C.

(2) PARTICIPANTS IN PLAN DEVELOPMENT.—In developing the plan described in paragraph (1), the Secretary shall involve—

(A) individuals with disabilities;

(B) parents of children with disabilities;

(C) appropriate professionals; and

(D) representatives of State and local educational agencies, private schools, institutions of higher education, other Federal agencies, the National Council on Disabilities, and national organizations with an interest in, and expertise in, providing services to children with disabilities and their families.

The Secretary shall publish the plan in the Federal Register for public comment.

(3) DISTRIBUTION OF FUNDS.—In implementing the plan described in paragraph (1), the Secretary shall, to the extent appropriate, ensure that funds are awarded to recipients under parts D and E to carry out activities that benefit, directly or indirectly, children with disabilities of all ages.

(c) ELIGIBLE APPLICANTS.—

(1) IN GENERAL.—Except as otherwise provided in this subsection and parts D and E, the following entities are eligible to apply for a grant, contract, or cooperative agreement under part D or E:

(A) A State educational agency.

(B) A local educational agency.

(C) An institution of higher education.

(D) Any other public agency.

(E) A private nonprofit organization.

(F) An outlying area.

(G) An Indian tribe or tribally controlled school funded by the Department of the Interior.

(H) A for-profit organization, if the Secretary determines that such organization is an appropriate entity to be eligible to apply for a grant, contract, or cooperative agreement under part D or E.

(2) SPECIAL RULE.—The Secretary may limit the entities eligible for an award of a grant, contract, or cooperative agreement to 1 or more categories of eligible entities described in paragraph (1). In the case of the award of a grant, contract, or cooperative agreement under section 634, an eligible entity shall demonstrate the capacity to conduct personnel preparation activities.

(3) USE OF FUNDS BY THE SECRETARY.—

(A) IN GENERAL.—Notwithstanding any other provision of law and subject to subparagraph (B), the Secretary may use not more than 20 percent of the total funds available under parts D and E (other than section 643) to carry out, through a grant, contract, or cooperative agreement, a project that consists of, or a combination of—

(i) a research or innovation activity that meets an objective described in section 633(a) or a personnel preparation activity that meets an objective described in section 634(a); and

(ii) a technical assistance or information dissemination activity that meets an objective described in section 644(a) or a technology development, demonstration, or utilization activity, or an educational media service, that meets an objective described in section 645(a);

subject to such conditions as the Secretary determines are appropriate to effectively meet the objectives involved.

(B) SPECIAL RULES.—In carrying out a project or combination under subparagraph (A), the Secretary shall use funds made available under—

(i) section 633 if the project or combination involves a research or innovation activity;

(ii) section 634 if the project or combination involves a personnel preparation activity;

(iii) section 644 if the project or combination involves a technical assistance or information dissemination activity; and

(iv) section 645 if the project or combination involves a technology development, demonstration, or utilization activity, or an educational media service.

(d) SPECIAL POPULATIONS.—

(1) APPLICATION REQUIREMENT.—In making an award of a grant, contract, or cooperative agreement under part D or E, the Secretary shall, as appropriate, require an applicant to demonstrate how the applicant will address the needs of children with disabilities from unserved, underserved, or inappropriately identified populations.

(2) OUTREACH AND TECHNICAL ASSISTANCE.—Notwithstanding any other provision of this Act, the Secretary—

(A) shall ensure that at least 1 percent of the total amount of funds appropriated for parts D and E is used—

(i) for providing outreach and technical assistance to Historically Black Colleges and Universities, and to institutions of higher education with minority enrollments of at least 25 percent, to promote the participa-

tion of such colleges, universities, and institutions in activities under such parts; and

(ii) to enable the Historically Black Colleges and Universities and the institutions described in clause (i) to assist other colleges, universities, institutions, and agencies in improving educational and transitional results for children with disabilities; and

(B) may reserve funds appropriated under parts D and E to meet the requirement of subparagraph (A).

(e) PRIORITIES.—

(1) IN GENERAL.—The Secretary shall ensure that a grant, contract, or cooperative agreement awarded under part D or E is awarded only for activities that are designed to benefit children with disabilities or their families or the personnel employed to work with such children or their families or to benefit other individuals with disabilities whom such part is intended to benefit.

(2) ELIGIBLE ACTIVITIES.—Subject to paragraph (1), the Secretary, in making an award of a grant, contract, or cooperative agreement under part D or E, may, without conducting rulemaking under section 553 of title 5, United States Code, limit the entities eligible for the grant, contract, or cooperative agreement to, or otherwise give priority to, eligible entities that carry out the following activities:

(A) IN GENERAL.—Activities relating to personnel preparation, training, research, dissemination of information, technical assistance, technology development, and educational media services that address 1 or more of the following:

(i) The age ranges of children with disabilities.

(ii) The types of disabilities of children.

(iii) The school grades of children with disabilities.

(iv) The types of educational placements or early intervention environments of children with disabilities.

(v) The types of services provided to children with disabilities.

(vi) Content areas such as reading.

(vii) Effective strategies for helping children with disabilities learn appropriate behavior in the school and other community-based educational settings.

(B) ACTIVITIES RELATED TO SEVERITY OF DISABILITY.—Activities relating to personnel preparation, training, research, dissemination of information, technical assistance, technology development, and educational media services that address the needs of children based on the severity of the disability of the children.

(C) OTHER RELATED ACTIVITIES.—Activities relating to personnel preparation, training, research, dissemination of information, technical assistance, technology development, and educational media services that address the needs of the following individuals and areas:

(i) Low-achieving students.

(ii) Underserved populations.

(iii) Children from low-income families.

(iv) Children with limited English proficiency.

(v) Unserved and underserved areas.

(vi) Children whose behavior interferes with their learning and socialization.

(vii) Inappropriately identified populations.

(D) NATIONAL ACTIVITIES.—Activities relating to personnel preparation, training, research, dissemination of information, technical assistance, technology development, and educational media services that are carried out in particular areas of the country, to ensure broad geographic coverage.

(E) AUTHORIZED ACTIVITIES.—Any activity that is expressly authorized in the applicable part.

(f) APPLICANT AND RECIPIENT RESPONSIBILITIES.—

(1) DEVELOPMENT AND ASSESSMENT OF PROJECTS.—The Secretary shall require that an applicant for, and a recipient of, a grant, contract, or cooperative agreement for a project under part D or E—

(A) involve individuals with disabilities or parents of individuals with disabilities in planning, implementing, and evaluating the project; and

(B) where appropriate, determine whether the project has any potential for replication and adoption by other entities.

(2) ADDITIONAL RESPONSIBILITIES.—The Secretary may require a recipient of a grant, contract, or cooperative agreement under part D or E to—

(A) share in the cost of the project of the recipient;

(B) prepare the research and evaluation findings and products from the project in formats that are useful for specific audiences, including parents, administrators, teachers, early intervention personnel, related services personnel, and individuals with disabilities;

(C) disseminate such findings and products; and

(D) collaborate with other such recipients in carrying out the activities described in subparagraphs (B) and (C).

(g) APPLICATION MANAGEMENT.—

(1) STANDING PANELS.—

(A) IN GENERAL.—The Secretary shall establish and use standing panels of experts who are competent, by virtue of their training, expertise, or experience, to evaluate applications under parts D and E that, individually, request more than $75,000 a year in assistance.

(B) FEDERAL EMPLOYMENT LIMITATION.—A majority of the individuals on each panel described in subparagraph (A) shall be individuals who are not employees of the Federal Government.

(2) SELECTION AND PARTICIPATION OF PANEL MEMBERS.—

(A) IN GENERAL.—The Secretary shall establish criteria to use in the selection of the panel members. Such criteria shall ensure that the membership of standing panels includes—

(i) individuals with knowledge and expertise on the issues addressed by the activities authorized by parts D and E; and

(ii) to the extent practicable, parents of children with disabilities, individuals with disabilities, and persons from diverse racial, ethnic, and cultural backgrounds.

(B) MEMBERSHIP.—Standing panel membership shall include, at a minimum—

(i) individuals who are representatives of institutions of higher education that plan, develop, and carry out programs of personnel preparation;

(ii) individuals who design and carry out programs of research targeted to the improvement of special education programs and services;

(iii) individuals who have recognized experience, and knowledge, necessary to integrate and apply research findings to improve educational and transitional results for children with disabilities;

(iv) individuals who administer programs at the State or local level in which children with disabilities participate;

(v) individuals who prepare parents of children with disabilities to participate in making decisions about the education of their children;

(vi) individuals who establish policies that affect the delivery of services to children with disabilities;

(vii) individuals who are parents of children with disabilities who are benefiting or have benefited from coordinated research, personnel preparation, and technical assistance; and

(viii) individuals who are individuals with disabilities.

(C) TRAINING.—The Secretary shall provide training to the individuals who are selected as members of the standing panels under this paragraph.

(D) TERM.—Membership on any such standing panel shall be for a period of not more than 3 consecutive years.

(3) SECRETARY'S DISCRETION OVER LIMITED USE OF DISCRETIONARY FUNDS FOR ADMINISTRATIVE PURPOSES.—

(A) EXPENSES AND FEES OF NON-FEDERAL PANEL MEMBERS.—The Secretary may use funds available under parts D and E to pay the expenses and fees of the panel members who are not members of the Federal Government.

(B) ADMINISTRATIVE SUPPORT.—The Secretary may use not more than 1 percent of the funds available under parts D and E to pay non-Federal entities for administrative support related to management of applications submitted under part D or E.

(C) MONITORING.—The Secretary may use funds available under parts D and E to pay the expenses of Federal employees to conduct onsite monitoring of projects receiving $500,000 or more, for any fiscal year under part D or E.

(h) PROGRAM EVALUATION.—The Secretary may use funds appropriated to carry out parts D and E to evaluate activities carried out under such parts.

(i) RULES OF CONSTRUCTION.—

(1) REFERENCES TO EARLY INTERVENTION SERVICES.—

(A) CHILD WITH A DISABILITY.—If a provision of this section or part C, D, or E refers to services for a child with a disability (or a family member of the child), and the services include early intervention services or services provided under part H, the provision shall be deemed to refer to—

(i) early intervention services or services provided under part H, respectively, for an infant or toddler with a disability (or a family member of the infant or toddler, as appropriate); and

(ii) the other services referred to in the provision for a child with a disability (or a family member of the child, as appropriate).

(B) PERSON WITH A RELATIONSHIP TO A CHILD WITH A DISABILITY.—If a provision of this section or part C, D, or E refers to a benefit (such as training or research) for a person (such as a parent or education professional) with a relationship to a child with a disability (or a family member of the child), and the benefit is provided with respect to services that include early intervention services or services provided under part H, the provision shall be deemed to refer to—

(i) the benefit, provided with respect to early intervention services or services provided under part H, respectively, for a person with a relationship to an infant or toddler with a disability (or a family member of the infant or toddler, as appropriate); and

(ii) the benefit, provided with respect to the other services referred to in the provision, for a person with a relationship to a child with a disability (or a family member of the child, as appropriate).

(2) REFERENCES TO EARLY INTERVENTION RESULTS.—

(A) CHILD WITH A DISABILITY.—If a provision of this section or part C, D, or E refers to results for a child with a disability, and the results include early intervention results, the provision shall be deemed to refer to—

(i) early intervention results for an infant or toddler with a disability; and

(ii) the other results referred to in the provision for a child with a disability.

(B) PERSON WITH A RELATIONSHIP TO A CHILD WITH A DISABILITY.—If a provision of this section or part C, D, or E refers to a benefit (such as training or research) for a person described in paragraph (1)(B)(ii) that is provided to achieve results for a child with a disability, and the results include early intervention results, the provision shall be deemed to refer to—

(i) the benefit, provided to achieve early intervention results, for a person with a relationship to an infant or toddler with a disability; and

(ii) the benefit, provided to achieve other results referred to in the provision, for a person with a relationship to a child with a disability.

* * * * * * *

[SEC. 611. (a)(1) Except as] *SEC. 611. (a)(1) Except as* provided in paragraph (5), the maximum amount of the grant for which a State is entitled under this section for any fiscal year is.—

* * * * * * *

SEC. 611. (a)(3) The number of children with disabilities receiving special education and related services in any fiscal year shall be equal to number of such children receiving special education and related services on [December 1] *the last Friday of October or December 1* of the fiscal year preceding the fiscal year for which the determination is made.

* * * * * * *

SEC. 611. [(c) Distribution and use of grant funds by States for fiscal years ending September 30, 1979, and thereafter.

(1) Of the funds]

(c)(1) Of the funds received under subsection (a) by any State for any fiscal year—

* * * * * * *

(B) except as provided in [paragraph (4)] *subsection (d)(3),* the State shall distribute at least 75 percent of such funds to local educational agencies [and intermediate educational units], in accordance with subsection (d), [for use in accordance with priorities established under section 612(3)]

[(2)

(A) From the funds]

(2)(A) From the funds that any State may use under paragraph (1)(A) for any fiscal year, the State—

(i) may use 5 percent of the funds received under this section or $450,000, whichever is greater, for [administrative costs related to carrying out sections 612 and 613; and] *the purpose of administering this part;*

(ii)(I) to provide support services and direct services, subject to subparagraph (B), [in accordance with priorities established under section 612(3); and]*;*

(II) for the administrative costs of monitoring and complaint investigation, but only to the extent that such costs exceed the costs of administration incurred during fiscal year 1985[.]*;*

(III) to establish and implement the mediation process required by section 615(e); and

(IV) for activities at the State and local levels to meet the performance goals established by the State under section 612(a)(16); and

(iii) may use the remainder—

(I) to develop and implement systems change activities under part C;

(II) to supplement other funds used to develop and implement a statewide fully integrated and coordinated services system that links education, health, social welfare services, support systems, private entities, and community entities in a manner designed to improve the educational and transitional results for children

and families (including children with disabilities and their families), but not to exceed 1 percent of the amount received by the State under this section; or

(III) for other appropriate activities, at the discretion of the State educational agency, that are consistent with the purposes described in paragraphs (1) and (4) of section 601(c).

The system described in subclause (II) of clause (iii) shall be coordinated with, and to the extent appropriate, support the coordinated, services developed by the State under part H.

* * * * * * *

(3) The provisions of **[**section 613(a)(9)**]** *section 612(a)(18)(A) (ii) and (iii)* shall not apply with respect to amounts available for use by any State under paragraph (2).

[(4)(A) No funds shall be distributed by any State under this subsection in any fiscal year to any local educational agency or intermediate educational unit in such State if—

[(i) such local educational agency or intermediate educational unit is entitled, under subsection (d), to less than $7,500 for such fiscal year; or

[(ii) such local educational agency or intermediate educational unit has not submitted an application for such funds which meets the requirements of section 614.

[(B) Whenever the provisions of subparagraph (A) apply, the State involved shall use such funds to assure the provision of a free appropriate education to children with disabilities residing in the area served by such local educational agency or such intermediate educational unit. The provisions of paragraph (2)(B) shall not apply to the use of such funds.**]**

(d) FORMULA.—

(1) From the total amount of funds available for any fiscal year under subsection (c)(1)(B), the State shall provide to each local educational agency **[**or intermediate educational unit**]** an amount that bears the same ratio to such total amount as the number of children, aged 3 through 21, determined under subsection (a)(3) for such agency **[**or unit**]** bears to the total number of such children determined for all such agents **[**and units**]** that apply for such funds.

* * * * * * *

(3)(A) A State may elect not to distribute funds to any local educational agency under this section or under section 619 for any fiscal year if the total amount the local educational agency would retire, from the combination of funds under this section and section 619, is less than $7,500.

(B) When a State elects to use its authority under subparagraph (A), the State shall use the funds that would otherwise be provided to the local educational agency to ensure the provision of a free appropriate public education to children with disabilities residing in the area served by that agency.

(C) A State's authority under subparagraph (A) does not apply to a State agency that is eligible for a payment under payment (2) or section 619(g).

(4) If a State educational agency determines that a local educational agency is adequately providing a free appropriate public education to all children with disabilities residing in the area served by that agency with State and local funds, the State educational agency may reallocate any portion of the funds under this part that are not needed by that local agency to provide a free appropriate public education to other local educational agencies in the State that are not adequately providing special education and related services to all children with disabilities residing in the areas such other local educational agencies serve.

[(e) TERRITORIES AND POSSESSIONS.

(1) The jurisdictions to which this subsection applies are Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and Palau (until the Compact of Free Association with the Government of Palau takes effect).]

(e)(1)(A) The jurisdictions to which this subsection applies are the outlying areas as defined in section 602.

[(2) Each jurisdiction] *(B) Each of the outlying areas* to which this subsection applies shall be entitled to a grant for the purposes set forth in section 601(c) in an amount equal to an amount determined by the Secretary in accordance with criteria based on respective needs, except that the aggregate of the amount to which [such jurisdictions are so] *such outlying areas are so* entitled for any fiscal year shall not exceed an amount equal to 1 per centum of the aggregate of the amounts, available to all States under this part for that fiscal year. If the aggregate of the amounts, determined by the Secretary pursuant to the preceding sentence, to be so needed for any fiscal year exceeds an amount equal to such 1 per centum limitation, the entitlement of each [such jurisdiction] *of the outlaying areas* shall be reduced proportionately until such aggregate does not exceed such 1 per centum limitation.

[(3) The] *(2) The* amount expended for administration by [each jurisdiction] *each of the outlying areas* under this subsection shall not exceed 5 per centum of the amount allotted to [such jurisdiction] *each of the outlying areas* for any fiscal year, or $35,000, whichever is greater.

(3) The provisions of section 501 of Public Law 95–134 (48 U.S.C. 1469a), permitting the consolidation of grants to outlying areas, shall not apply to funds such areas receive under this section.

(f)(1) The Secretary shall make payments to the Secretary of the Interior to meet the need for assistance for the education of children with disabilities on reservations aged 5–21, inclusive, enrolled in elementary and secondary schools for Indian children operated or funded by the Secretary of the Interior. In the case of Indian students ages 3–5, inclusive, who are enrolled in programs affiliated with Bureau of Indian Affairs (hereafter in this subsection referred to as "BIA") schools and that are required by the States in which such schools are located to attain or maintain State accreditation, and which schools have such accreditation prior to the date of enactment of the Individuals with Disabilities Education Act Amendments of 1991 (enacted Oct. 7, 1991), the school shall be allowed to count those children for the purpose of distribution of the funds provided under this paragraph to the Secretary of the Interior. The Secretary of the Interior shall be responsible for meeting all of the requirements of this part [for these children] *for children with disabilities aged 3 through 21, who are enrolled in programs affiliated with the BIA,* in accordance with paragraph (3). The amount of such payment for any fiscal year shall be 1 percent of the [aggregate amounts available for all States under this section for that fiscal year] *amount appropriated under subsection (h) for that fiscal year.*

* * * * * * *

(3) The Secretary of the Interior may receive an allotment under paragraph (1) only after submitting to the Secretary of Education [an application that—] *information that—*

[(A) meets the appropriate requirements, as determined by the Secretary of Education, of sections 612 (including monitoring and evaluation activities), 613, and 614(a)];

(A) demonstrates that the Department of the Interior meets the appropriate requirements, as determined by the Secretary of Education, of sections 612 (including monitoring and evaluation activities) and 613

* * * * * * *

(D) includes an assurance that the Secretary of the Interior will provide such information as the Secretary of Education may require to comply with [section 618(b)(1), including data on the number of children and youth with disabilities served and the types and amounts of services provided and needed and this information shall be included in the annual report of the Secretary of Education to Congress required in Section 618(g)] *section 618;*

(E) includes [an assurance that, by October 1, 1992, the Secretaries of the Interior and Health and Human Services will enter into a memorandum of agreement] *information that describes activities undertaken with regard to the memorandum of agreement between the Secretaries of the Interior and of Health and Human Services,* to be provided to the Secretary of Education, for the coordination of services, resources, and personnel between their respective Federal, State, and local offices and with State and local educational agencies and other entities to facilitate the provision of services to Indian children with disabilities residing on or near reservations. Such agreement shall provide for the apportionment of responsibilities and costs including, but not limited to, child find, evaluation, diagnosis, remediation or therapeutic measures, and (where appropriate) equipment and medical/personal supplies as needed for a child to remain in school or a program; and

(F) includes an assurance that the Department of the Interior will cooperate with the Department of Education in [its exercise of] *the Department of Education's* monitoring and oversight [of this application] *related to information submitted to the Secretary of Education under this paragraph,* and any agreements entered into between the Secretary of the Interior and other entities under this Act, and will fulfill [its duties] *the duties of the Department of the Interior* under this Act.

Section 616(a) shall apply to any such [application.] *information. The Secretary of the Interior shall submit annually to the Secretary of Education a report on the status on the activities described in subparagraphs (A) through (F) that the Secretary of the Interior is carrying out.*

(4)(A) [Beginning with funds appropriated under section 611(a) for fiscal year 1992,] *With funds appropriated under subsection (h),* the Secretary shall, subject to this paragraph, make payments to the Secretary of the Interior to be distributed to tribes or tribal organizations (as defined under section 4 of the Indian Self-Determination and Education Assistance Act) or consortiums of the above to provide for the coordination of assistance for special education and related services for children with disabilities aged 3–5, inclusive, on reservations served by elementary and secondary schools for Indian children operated or funded by the Department of the Interior. The amount of such payments under subparagraph (B) for any fiscal year shall be .25 percent of the [aggregate amounts available for all States under this section] *amount appropriated under subsection (h)* for that fiscal year.

[(B) The Secretary of the Interior shall distribute the total amount of the .25 percent under subparagraph (A) in the following manner:]

(B) The Secretary of the Interior shall distribute the total amount of the 0.25 percent under subparagraph (A) by allocating to each tribe or tribal organization an amount based on the number of children with disabilities, aged 3 through 5, residing on reservations as reported annually divided by the total of such children served by all tribes or tribal organizations.

* * * * * * *

(D) The funds received by a tribe or tribal organization shall be used to assist in child find, screening, and other procedures for the early identification of children aged 3–5, inclusive, parent training, and the provision of direct services. These activities may be carried out directly or through contracts or cooperative agreements with the BIA, local educational agencies, and other public or private nonprofit organizations. The tribe or tribal organization [is encouraged to] *shall* involve Indian parents in the development and implementation of these activities. [The above entities] *The tribe and tribal organization* shall, as appropriate, make referrals to local, State, or Federal entities for the provision of services or further [diagnosis] *diagnosis of the children.*

(E) To be eligible to receive a grant pursuant to subparagraph (A), the tribe or tribal organization shall make [a biennial report] *an annual report* to the Secretary of the Interior of activities undertaken under this paragraph, including the number of contracts and cooperative agreements entered into, the number of children contacted and receiving services for each year and the estimated number of children needing services during the 2 years [following the one in which] *following* *the year in which* the report is made. The Secretary of the Interior shall include a summary of this information on a [biennial basis] *an annual basis* in the report to the Secretary of Education required [under this subsection] *under paragraph (3)* The Secretary of Education may require any additional information from the Secretary of the Interior.

(F) The Secretary of the Interior shall offer and, on request, provide technical assistance (especially in the areas of child find, diagnosis, and referral) to State and local educational agencies [(where appropriate, intermediate educational units)], and tribes and tribal organizations. Such assistance may be provided through [its divisions and offices] *any appropriate division or office of the Department of the Interior* at the national and local level.

* * * * * * *

(5) Before [January 1, 1992] *June 1, 1997,* the Secretary of the Interior shall submit to the [Committee on Education and Labor] *Chairman of the Committee on Economic and Educational Opportunities* of the House of Representatives and the [Committee on Labor] *Chairman of the Committee on Labor* and Human Resources of the Senate a plan for the coordination of service for all Indian children with disabilities residing on reservations covered under this Act. Such plan shall provide for the coordination of services benefiting these children from whatever source, including tribes, the Indian Health Service, other BIA divisions, and other Federal agencies. In developing such a plan, the Secretary of the Interior shall consult with all [interested and involved parties] *interested and involved parties, including parents of Indian children with disabilities.* It shall be based upon the needs of the children and the system best suited for meeting those needs, and may involve the establishment of cooperative agreements between the BIA, other Federal agencies, and other entities. Such plan shall also be distributed upon request to States, State and local educational agencies, and other agencies providing services to infants, toddlers, children, and youth with disabilities, to tribes, and to other [interested parties] *interested agencies, organizations, or individuals.*

(6) To meet the requirements of [section 613(a)(12) of this Act] *section 612(a)(20),* the Secretary of the Interior shall establish, [within 6 months of the date of the enactment of the Individuals with Disabilities Education Act Amendments of 1991, under the Bureau of Indian Affairs (BIA),] an advisory board composed of individuals involved in or concerned with the education and provision of services to Indian infants, toddlers, children, and youth with disabilities, including Indians with disabilities, Indian parents or guardians of such children, teachers, service providers, State and local educational officials, representatives of tribes or tribal organizations, representatives from State Interagency Coordinating Councils in States having reservations, and other members representing the various divisions and entities of the BIA. The chairperson shall be selected by the Secretary of the Interior. The advisory board shall—

(A) assist in coordinating of services within BIA and with other local, State, and Federal agencies in the provision of education for infants, toddlers, [children, and youth] *and children* with disabilities;

* * * * * * *

(D) provide assistance and disseminate information on best practices, effective program coordination strategies, and recommendations for improved educational programming for Indian infants, toddlers, children, and youth with disabilities; [and]

(E) provide assistance in the preparation of information required under paragraph (3)(D)[.] *and;*

(F) prepare a status report on the educational and transitional results for Indian children with disabilities, to be submitted to the Secretary of the Interior on January 2, 1997.

(g) Insufficient appropriations.

(1)(c)(i) deduct, from the amount that the State would otherwise be required to make available to local educational agencies [and intermediate educational units], the same amount of such additional funds as the State so used; and

* * * * * * *

(2)(A) In any fiscal year for which payments have been reduced and additional funds have not been made available under paragraph (1) to pay in full the amounts for which all States are eligible under this section, each State educational agency shall fix dates by which each local educational agency [or intermediate educational unit] shall report to the State agency the amount of funds available to such agency under this section that such agency estimates such agency will expend.

(B) The State educational agency shall, in accordance with this section, reallocate any funds that the State educational agency determines will not be used during the period of availability by local educational agencies [and intermediate educational units], and by any such agency [or unit] to which such funds would be available if such agency [or unit] applied for such funds under this part, to those local educational agencies [and intermediate educational units] that the State educational agency determines will need, and be able to use, additional funds to carry out approved programs.

* * * * * * *

ELIGIBILITY

[SEC. 612. In order to qualify for assistance under this part in any fiscal year, a State shall demonstrate to the Secretary that the following conditions are met:

[(1) The State has in effect a policy that assures all children with disabilities the right to a free appropriate public education.

[(2) The State has developed a plan pursuant to section 613(b) in effect prior to the date of the enactment of the Education for All Handicapped Children Act of 1975 and submitted not later than August 21, 1975, which will be amended so as to comply with the provisions of this paragraph. Each such amended plan shall set forth in detail the policies and procedures which the State will undertake or has undertaken in order to assure that—

[(A) there is established (i) a goal of providing full educational opportunity to all children with disabilities, (ii) a detailed timetable for accomplishing such a goal, and (iii) a description of the kind and number of facilities, personnel, and services necessary throughout the State to meet such a goal;

[(B) a free appropriate public education will be available for all children with disabilities between the ages of three and eighteen within the State not later than September 1, 1978, and for all children with disabilities between the ages of three and twenty-one within the State not later than September 1, 1980, except that, with respect to children with disabilities aged three to five and aged eighteen to twenty-one, inclusive, the requirements of this clause shall not be applied in any State if the application of such requirements would be inconsistent with State law or practice, or the order of any court, respecting public education within such age groups in the State;

[(C) all children residing in the State who are disabled, regardless of the severity of their disability, and who are in need of special education and related services are identified, located, and evaluated, and that a practical method is developed and implemented to determine which children are currently receiving needed special education and related services and which children are not currently receiving needed special education and related services;

[(D) policies and procedures are established in accordance with detailed criteria prescribed under section 617(c); and

[(E) any amendment to the plan submitted by the State required by this section shall be available to parents, guardians, and other members of the general public at least thirty days prior to the date of submission of the amendment to the Secretary.

[(3) The State has established priorities for providing a free appropriate public education to all children with disabilities, which priorities shall meet the timetables set forth in clause (B) of paragraph (2) of this section, first with respect to children with disabilities who are not receiving an education, and second with respect to children with disabilities, within each disability category, with the most severe disabilities who are receiving an inadequate education, and has made adequate progress in meeting the timetables set forth in clause (B) of paragraph (2) of this section.

[(4) Each local educational agency in the State will maintain records of the individualized education program for each child with a disability, and such program shall be established, reviewed, and revised as provided in section 614(a)(5).

[(5) The State has established (A) procedural safeguards as required by section 615, (B) procedures to assure that, to the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are not disabled, and that special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily, and (c) procedures to assure that testing and evaluation materials and procedures utilized for the purposes of evaluation and placement of children with disabilities will be selected and administered so as not to be racially or culturally discriminatory. Such materials or procedures shall be provided and administered in the child's native language or mode of communication, unless it clearly is not feasible to do so, and no single procedure shall be the sole criterion for determining an appropriate educational program for a child.

[(6) The State educational agency shall be responsible for assuring that the requirements of this part are carried out and that all educational programs for children with disabilities within the State, including all such programs administered by any other State or local agency, will be under the general supervision of the persons responsible for educational programs for children with disabilities in the State educational agency and shall meet educational standards of the State educational agency. This paragraph shall not be construed to limit the responsibility of agencies other than educational agencies in a State from providing or paying for some or all of the costs of a free appropriate public education to be provided children with disabilities in the State.

[(7) The state shall assure that (A) in carrying out the requirements of this section procedures are established for consultation with individuals involved in or concerned with the education of children with disabilities, including individuals with disabilities and parents or guardians of children with disabilities, and (B) there are public hearings, adequate notice of such hearings, and an opportunity for comment available to the general public prior to adoption of the policies, programs, and procedures required pursuant to the provisions of this section and section 613.

[STATE PLANS

[SEC. 613. (a) Any State meeting the eligibility requirements set forth in section 612 and desiring to participate in the program under this part shall submit to the Secretary, through its State educational agency, a State plan at such time, in such manner, and containing or accompanied by such information, as the Secretary deems necessary. Each such plan shall—

[(1) set forth policies and procedures designed to assure that funds paid to the State under this part will be expended in accordance with the provisions of this part, with particular attention given to the provisions of sections 611(b), 611(c), 611(d), 612(2), and 612(3);

[(2) provide that programs and procedures will be established to assure that funds received by the State or any of its political subdivisions under any other Federal program under which there is specific authority for the provision of assistance for the education of children with disabilities, will be utilized by the State, or any of its political subdivisions, only in a manner consistent with the goal of providing a free appropriate public education for all children with disabilities, except that nothing in this clause shall be construed to limit the specific requirements of the laws governing such Federal programs;

[(3) describe, consistent with the purposes of this Act and with the comprehensive system of personnel development described in section 676(b)(8), a comprehensive system of personnel development that shall include—

[(A) a description of the procedures and activities the State will undertake to ensure an adequate supply of qualified special education and related services personnel including—

[(i) the development and maintenance of a system for determining on an annual basis—

[(I) the number and type of personnel, including leadership personnel, that are employed in the provision of special education and related services, by area of specialization, including the number of such personnel who are employed on an emergency, provisional, or other basis, who do not hold appropriate State certification or licensure; and

[(II) the number and type of personnel, including leadership personnel, needed, and a projection of the numbers of such personnel that will be needed in five years, based on projections of individuals to be served, retirement and other leaving of personnel from the field, and other relevant factors;

[(ii) the development and maintenance of a system for determining, on an annual basis, the institutions of higher education within the State that are preparing special education and related services personnel, including leadership personnel, by area of specialization, including—

[(I) the numbers of students enrolled in such programs, and

[(II) the number who graduated with certification or licensure, or with credentials to qualify for certification or licensure, during the past year; and

[(iii) the development, updating, and implementation of a plan that—

[(I) will address current and projected special education and related services personnel needs, including the need for leadership personnel; and

[(II) coordinates and facilitates efforts among State and local educational agencies, institutions of higher education, and professional associations to recruit, prepare, and retain qualified personnel, including personnel from minority backgrounds, and personnel with disabilities; and

[(B) a description of the procedures and activities the State will undertake to ensure that all personnel necessary to carry out this part are appropriately and adequately prepared including—

[(i) a system for the continuing education of regular and special education and related services personnel;

[(ii) procedures for acquiring and disseminating to teachers, administrators, and related services personnel significant knowledge derived from education research and other sources; and

[(iii) procedures for adopting, where appropriate, promising practices, materials, and technology.[1]

[(4) set forth policies and procedures to assure—

[(A) that, to the extent consistent with the number and location of children with disabilities in the State who are enrolled in private elementary and secondary schools, provision is made for the participation of such children in the program assisted or carried out under this part by providing for such children special education and related services; and

[(B) that—

[(i) children with disabilities in private schools and facilities will be provided special education and related services (in conformance with an individualized education program as required by this part) at no cost to their parents or guardian, if such children are placed in or referred to such schools or facilities by the State or appropriate local educational agency as the means of carrying out the requirements of this part or any other applicable law requiring the provision of special education and related services to all children with disabilities within such State, and

[(ii) in all such instances, the State educational agency shall determine whether such schools and facilities meet standards that apply to State and local educational agencies and that children so served have all the rights they would have if served by such agencies;

[(5) set forth policies and procedures which assure that the State shall seek to recover any funds made available under this part for services to any child who is determined to be erroneously classified as eligible to be counted under section 611(a) or section 611(d);

[(6) provide satisfactory assurance that the control of funds provided under this part, and title of property derived therefrom, shall be in a public agency for the uses and purposes provided in this part, and that a public agency will administer such funds and property;

[(7) provide for—

[(A) making such reports in such form and containing such information as the Secretary may require to carry out the Secretary's functions under this part, and

[(B) keeping such records and affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports and proper disbursement of Federal Funds under this part:

[(8) provide procedures to assure that final action with respect to any application submitted by a local educational agency or an intermediate educational unit shall not be taken without first affording the local educational agency or intermediate educational unit involved reasonable notice and opportunity for a hearing;

[(9) provide satisfactory assurance that Federal funds made available under this part—

[(A) will not be commingled with State funds, and

[(B) will be so used as to supplement and increase the level of Federal, State, and local funds (including funds that are not under the direct control of State or local educational agencies) expended for special education and related services provided to children with disabilities under this part and in no case to supplant such Federal, State and local funds, except that, where the State provides clear and convincing evidence that all children with disabilities have available to them a free appropriate public education, the Secretary may waive in part the requirement of this subparagraph if the Secretary concurs with the evidence provided by the State;

[(10) provide, consistent with the procedures prescribed pursuant to section 617(a)(2), satisfactory assurance that such fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under this part to the State, including any such funds paid by the State to local educational agencies and intermediate educational units;

[(11) provide for procedures for evaluation at least annually of the effectiveness of programs in meeting the educational needs of children with disabilities (including evaluation of individualized education programs), in accordance with such criteria that the Secretary shall prescribe pursuant to section 617:

[(12) provide that the State has an advisory panel, appointed by the Governor or any other official authorized under State law to make such appointments, composed of individuals involved in or concerned with the education of children with disabilities, including individuals with disabilities, teachers, parents or guardians of children with disabilities, State and local education officials, and administrators of programs for children with disabilities, which—

[(A) advises the State educational agency of unmet needs within the State in the education of children with disabilities, [(B) comments publicly on any rules or regulations proposed for issuance by the State regarding the education of children with disabilities and the procedures for distribution of funds under this part, and

[(C) assists the State in developing and reporting such data and evaluations as may assist the Secretary in the performance of the responsibilities of the Secretary under section 618;

[(13) set forth policies and procedures for developing and implementing interagency agreements between the State educational agency and other appropriate State and local agencies to—

[(A) define the financial responsibility of each agency for providing children and youth with disabilities with free appropriate public education, and

[(B) resolve interagency disputes, including procedures under which local educational agencies may initiate proceedings under the agreement in order to secure reimbursement from other agencies or otherwise implement the provisions of the agreement;

[(14) set forth policies and procedures relating to the establishment and maintenance of standards to ensure that personnel necessary to carry out the purposes of this part are appropriately and adequately prepared and trained, including—

[(A) the establishment and maintenance of standards which are consistent with any State approved or recognized certification, licensing, registration, or other comparable requirements which apply to the area in which such personnel are providing special education or related services, and

[(B) to the extent such standards are not based on the highest requirements in the State applicable to a specific profession or discipline, the steps the State is taking to require the retraining or hiring of personnel that meet appropriate professional requirements in the State; and

[(15) set forth policies and procedures relating to the smooth transition for those individuals participating in the early intervention program assisted under part H who will participate in preschool programs assisted under this part, including a method of ensuring that when a child turns age three an individualized education program, or, if consistent with sections 614(a)(5) and 677(d), an individualized family service plan, has been developed and is being implemented by such child's third birthday.

[(b) Whenever a State educational agency provides free appropriate public education of children with disabilities, or provides direct services to such children, such State educational agency shall include, as part of the State plan required by subsection (a) of this section,such additional assurances not specified in such subsection (a) as are contained in section 614(a), except that funds available for the provision of such education or services may be expended without regard to the provisions relating to excess costs in section 614(a).

[(c)(1) The Secretary shall approve any State plan and any modification thereof which—

[(A) is submitted by a State eligible in accordance with section 612; and

[(B) meets the requirements of subsection (a) and subsection (b).

[(2) The Secretary shall disapprove any State plan which does not meet the requirements of paragraph (1), but shall not finally disapprove a State plan except after reasonable notice and opportunity for a hearing to the State.

[(d)(1) If, on the date of enactment of the Education of the Handicapped Act Amendments of 1983, a State educational agency is prohibited by law from providing for the participation in special programs of children with disabilities enrolled in private elementary and secondary schools required by subsection (a)(4), the Secretary shall waive such requirement, and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of subsection (a)(4).

[(2)(A) When the Secretary arranges for services pursuant to this subsection, the Secretary, after consultation with the appropriate public and private school officials, shall pay to the provider of such services an amount per child which may not exceed the Federal amount provided per child under this part to all children with disabilities enrolled in the State for services for the fiscal year preceding the fiscal year for which the determination is made.

[(B) Pending final resolution of any investigation or complaint that could result in a determination under this subsection, the Secretary may withhold from the allocation of the affected State educational agency the amount the Secretary estimates would be necessary to pay the cost of such services.

[(C) Any determination by the Secretary under this section shall continue in effect until the Secretary determines that there will no longer be any failure or inability on the part of the State educational agency to meet the requirements of subsection (a)(4).

[(3)(A) The Secretary shall not take any final action under this subsection until the State educational agency affected by such action has had an opportunity, for at least 45 days after receiving written notice thereof, to submit written objections and to appear before the Secretary or the Secretary's designee to show cause why such action should not be taken.

[(B) If a State educational agency is dissatisfied with the Secretary's final action after a proceeding under subparagraph (A) of this paragraph, it may, within 60 days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which the Secretary based the Secretary's action, as provided in section 2121 of title 28, United States Code.

[(C) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify the Secretary's previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

[(D) Upon the filing of a petition under subparagraph (B), the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

[(e) This Act shall not be construed to permit a State to reduce medical and other assistance available or to alter eligibility under titles V and XIX of the Social Security Act with respect to the provision of a free appropriate public education for children with disabilities within the State.

[APPLICATION

[SEC. 614. (a) A local educational agency or an intermediate educational unit which desires to receive payments under section 611(d) for any fiscal year shall submit an application to the appropriate State educational agency. Such application shall—

[(1) provide satisfactory assurance that payments under this part will be used for excess costs directly attributable to programs which—

[(A) provide that all children residing within the jurisdiction of the local educational agency or the intermediate educational unit who are disabled, regardless of the severity of their disability, are in need of special education and related services will be identified, located, and evaluated, and provide for the inclusion of a practical method of determining which children are currently receiving needed special education and related services and which children are not currently receiving such education and services.

[(B) establish policies and procedures in accordance with detailed criteria prescribed under section 617(c);

[(C) establish a goal of providing full educational opportunities to all children with disabilities, including—

[(i) procedures for the implementation and use of the comprehensive system of personnel development established by the State educational agency under section 613(a)(3);

[(ii) the provision of, and the establishment of priorities for providing, a free appropriate public education to all children with disabilities, first with respect to handicapped children who are not receiving an education, and second with respect to children with disabilities, within each disability, with the most severe disabilities who are receiving an inadequate education;

[(iii) the participation and consultation of the parents or guardian of such children; and

[(iv) to the maximum extent practicable and consistent with the provisions of section 612(5)(B), the provision of special services to enable such children to participate in regular educational programs;

[(D) establish a detailed timetable for accomplishing the goal described in subclause (C); and

[(E) provide a description of the kind and number of facilities, personnel, and services necessary to meet the goal described in subclause (C);

[(2) provide satisfactory assurance that—

[(A) the control of funds provided under this part, and title to property derived from such funds, shall be in a public agency for the uses and purposes provided in this part, and that a public agency will administer such funds and property,

[(B) Federal funds expended by local educational agencies and intermediate educational units for programs under this part—

[(i) shall be used to pay only the excess costs directly attributable to the education of children with disabilities; and

[(ii) shall be used to supplement and, to the extent practicable, increase the level of State and local funds expended for the education of children with disabilities, and in no case to supplant such State and local funds; and

[(C) State and local funds will be used in the jurisdiction of the local educational agency or intermediate educational unit to provide services in program areas that, taken as a whole, are at least comparable to services being provided in areas of such jurisdiction that are not receiving funds under this part;

[(3) provide for—

[(A) furnishing such information (which, in the case of reports relating to performance, is in accordance with specific performance criteria related to program objectives), as may be necessary to enable the State educational agency to perform its duties under this part, including information relating to the educational achievement of children with disabilities participating in programs carried out under this part; and

[(B) keeping such records, and affording such access to such records, as the State educational agency may find necessary to assure the correctness and verification of such information furnished under subparagraph (A);

[(4) provide for making the application and all pertinent documents related to such application available to parents, guardians, and other members of the general public, and provide that all evaluations and reports required under clause (3) shall be public information;

[(5) provide assurances that the local educational agency or intermediate educational unit will establish or revise, whichever is appropriate, an individualized education program for each child with a disability (or, if consistent with State policy and at the discretion of the local educational agency or intermediate educational unit, and with the concurrence of the parents or guardian, an individualized family service plan described in section 677(d) for each child with a disability aged

3 to 5, inclusive) at the beginning of each school year and will then review and, if appropriate revise, its provisions periodically, but not less than annually;

[(6) provide satisfactory assurance that policies and programs established and administered by the local educational agency or intermediate educational unit shall be consistent with the provisions of paragraph (1) through paragraph (7) of section 612 and section 613(a); and

[(7) provide satisfactory assurance that the local educational agency or intermediate educational unit will establish and maintain procedural safeguards in accordance with the provisions of sections 612(5)(B), 612(5)(C), and 615.

[(b)(1) A State educational agency shall approve any application submitted by a local educational agency or an intermediate educational unit under subsection (a) if the State educational agency determines that such application meets the requirements of subsection (a), except that no such application may be approved until the State plan submitted by such State educational agency under subsection (a) is approved by the Secretary under section 613(c). A State educational agency shall disapprove any application submitted by a local educational agency or an intermediate educational unit under subsection (a) if the State educational agency determines that such application does not meet the requirements of subsection (a).

[(2)(A) Whenever a State educational agency, after reasonable notice and opportunity for a hearing, finds that a local educational agency or an intermediate educational unit, in the administration of an application approved by the State educational agency under paragraph (1), has failed to comply with any requirement set forth in such application, the State educational agency, after giving appropriate notice to the local educational agency or the intermediate educational unit, shall—

[(i) make no further payments to such local educational agency or such intermediate educational unit under section 620 until the State educational agency is satisfied that there is no longer any failure to comply with the requirement involved; or

[(ii) take such finding into account in its review of any application made by such local educational agency or such intermediate educational unit under subsection (a).

[(B) The provisions of the last sentence of section 616(a) shall apply to any local educational agency or any intermediate educational unit receiving any notification from a State educational agency under this paragraph.

[(3) In carrying out its functions under paragraph (1), each State educational agency shall consider any decision made pursuant to a hearing held under section 615 which is adverse to the local educational agency or intermediate educational unit involved in such decision.

[(c)(1) A State educational agency may, for purposes of the consideration and approval of applications under this section, require local educational agencies to submit a consolidated application for payments if such State educational agency determines that any individual application submitted by any such local educational agency will be disapproved because such local educational agency is ineligible to receive payments because of the application of section 611(c)(4)(A)(i) or such local educational agency would be unable to establish and maintain programs of sufficient size and scope to effectively meet the educational needs of children and disabilities.

[(2)(A) In any case in which a consolidated application of local educational agencies is approved by a State educational agency under paragraph (1), the payments which such local educational agencies may receive shall be equal to the sum of payments to which each such local educational agency would be entitled under section 611(d) if an individual application of any such local educational agency had been approved.

[(B) The State educational agency shall prescribe rules and regulations with respect to consolidated applications submitted under this subsection which are consistent with the provisions of paragraph (1) through paragraph (7) of section 612 and section 613(a) and which provide participating local educational agencies with joint responsibilities for implementing programs receiving payments under this part.

[(C) In any case in which an intermediate educational unit is required pursuant to State law to carry out the provisions of this part, the joint responsibilities given to local educational agencies under subparagraph (B) shall not apply to the administration and disbursement of any payments received by such intermediate educational unit. Such responsibilities shall be carried out exclusively by such intermediate educational unit.

[(d) Whenever a State educational agency determines that a local educational agency—

[(1) is unable or unwilling to establish and maintain programs of free appropriate public education which meet the requirements established in subsection (a);

[(2) is unable or unwilling to be consolidated with other local educational agencies in order to establish and maintain such programs; or

[(3) has one or more children with disabilities who can best be served by a regional or State center designed to meet the needs of such children;

the State educational agency shall use the payments which would have been available to such local educational agency to provide special education and related services directly to children with disabilities residing in the area served by such local educational agency. The State educational agency may provide such education and services in such manner, and at such locations (including regional or State centers), as it considers appropriate, except that the manner in which such education and services are provided shall be consistent with the requirements of this part.

[(e) Whenever a State educational agency determines that a local educational agency is adequately providing a free appropriate public education to all children with disabilities residing in the area served by such agency with State and local funds otherwise available to such agency, the State educational agency may reallocate funds (or such portion of those funds as may not be required to provide such education and services) made available to such agency, pursuant to section 611(d), to such other local educational agencies within the State as are not adequately providing special education and related services to all children with disabilities residing in the areas served by such other local educational agencies.

[(f) Notwithstanding the provisions of subsection (a)(2)(B)(ii), any local educational agency which is required to carry out any program for the education of children with disabilities pursuant to a State law shall be entitled to receive payments under section 611(d) for use in carrying out such program, except that such payments may not be used to reduce the level of expenditures for such program made by such local educational agency from State or local funds below the level of such expenditures for the fiscal year prior to the fiscal year for which such local educational agency seeks such payments.]

SEC. 612. STATE ELIGIBILITY.

(a) In General.—A State is eligible for assistance under this part for any fiscal year if the State demonstrates to the satisfaction of the Secretary that the State has in effect policies and procedures to ensure that the State meets each of the following conditions:

(1) Free appropriate public education.—

(A) In general.—A free appropriate public education is available to all children with disabilities aged 3 through 21 who are residing in the State.

(B) Applicability.—Subparagraph (A) does not apply with respect to children aged 3 through 5 and 18 through 21 in a State to the extent that the application of such subparagraph to such children would be inconsistent with State law or practice, or the order of any court, respecting the provision of public education to children in such age ranges.

(2) Full educational opportunity goal.—The State has established a goal of providing full educational opportunity to all children with disabilities and a detailed timetable for accomplishing the goal.

(3) Child find.—

(A) In general.—All children with disabilities residing in the State are identified, located, and evaluated, regardless of the severity of the disability of the children.

(B) Construction.—Nothing in this Act requires that children be classified by their disability so long as each child who has a disability listed in section 602(a)(4)(A)(i) and who, by reason of that disability, needs special education and related services is regarded as a child with a disability under this part.

(4) Individualized education program.—An individualized education program (or an individualized family service plan that meets the content requirements of section 677(d)) is developed, reviewed, and revised in accordance with subsections (d) through (i) of section 614.

(5) Least restrictive environment.—

(A) In general.—To the maximum extent appropriate, children with disabilities (including children in public or private institutions or other care facilities) are educated with children who are not disabled, and special classes, separate schooling, or other removal of children with dis-

abilities from the regular educational environment occurs only when the nature or severity of a child's disability is such that education in regular classes with the use of special education and related services and supplementary aids and services cannot be achieved satisfactorily.

(B) FUNDING.—

(i) IN GENERAL.—If the State uses a funding mechanism by which the State distributes State funds on the basis of the type of setting in which a child is served, the funding mechanism does not result in placements that violate the requirements of subparagraph (A).

(ii) ASSURANCE.—If the State does not have policies and procedures to ensure compliance with clause (i), the State shall provide the Secretary with an assurance that the State will revise the funding mechanism used by the State as soon as feasible to ensure that the funding mechanism does not result in such placements.

(C) DISPROPORTIONALITY.—

(i) IN GENERAL.—Data are examined by the State educational agency to determine if significant racial disproportionality is occurring in the identification of children as children with disabilities (including the classification of such children according to a particular impairment described in section 602(a)(4)) or in the placement of such children in particular types of settings.

(ii) REVIEW AND REVISION OF POLICIES.—In the case of an occurrence described in clause (i), the placement and evaluation policies, procedures, and practices are reviewed and, if appropriate, revised, to ensure that such policies, procedures, and practices comply with the requirements of this Act.

(6) PROCEDURAL SAFEGUARDS.—Children with disabilities and their parents are afforded the procedural safeguards required by section 615 and 615A.

(7) EVALUATION.—Children with disabilities are evaluated in accordance with subsections (a) through (c) of section 614.

(8) CONFIDENTIALITY.—Agencies in the State comply with section 617(c), relating to the confidentiality of records and information.

(9) TRANSITION FROM PART H TO PRESCHOOL PROGRAMS.—

(A) IN GENERAL.—Children who are participating in early intervention programs under part H and who will participate in preschool programs assisted under this part, are provided an effective transition to such preschool programs.

(B) TRANSITION PLANNING.—Local educational agency personnel will participate in transition planning conferences convened by the designated or established lead agency under section 678(a)(8)(A)(ii)(II).

(C) INDIVIDUALIZED EDUCATION PROGRAM; INDIVIDUALIZED FAMILY SERVICE PLAN.—By the third birthday of a child who participates in the programs described in subparagraph (A), an individualized education program or, if

consistent with section 614(d)(1)(B) or 677(d), an individualized family service plan, has been developed and is being implemented.

(10) CHILDREN IN PRIVATE SCHOOLS.—

(A) CHILDREN PLACED IN PRIVATE SCHOOLS BY THEIR PARENTS.—To the extent consistent with the number and location of children with disabilities in the State who are enrolled by their parents in private elementary and secondary schools, provision is made for the participation of such children in the program assisted or carried out under this part by providing special education and related services for such children.

(B) CHILDREN PLACED IN, OR REFERRED TO, PRIVATE SCHOOLS BY PUBLIC AGENCIES.—

(i) IN GENERAL.—Children with disabilities in private schools and facilities are provided special education and related services, in accordance with individualized education programs, at no cost to their parents, if such children are placed in, or referred to, such schools or facilities by the State or a local educational agency in order to comply with this part or with any other law requiring the provision of special education and related services to all children with disabilities in the State.

(ii) STANDARDS.—In all cases described in clause (i), children with disabilities are placed in, or referred to, only private schools and facilities that meet standards that apply to State and local educational agencies, and children with disabilities served in such schools and facilities have all the rights such children would have if served by such agencies.

(C) PAYMENT FOR EDUCATION OF CHILDREN PLACED IN PRIVATE SCHOOLS WITHOUT CONSENT OF OR REFERRAL BY THE PUBLIC AGENCY.—

(i) IN GENERAL.—Subject to subparagraph (A), this part does not require a local educational agency to pay for the cost of education, including special education and related services, of a child with a disability at a private school or facility if that agency made a free appropriate public education available to the child and the parents elected to place the child in such private school or facility.

(ii) LIMITATION ON REIMBURSEMENT FOR SERVICES.—If, as a result of mediation described in section 615(e), or as a result of a decision rendered under the procedural safeguards of section 615, the parents of a child with a disability who previously received special education and related services under the authority of a local educational agency enroll their child in a private elementary or secondary school without the consent of, or a referral by the local educational agency, any reimbursement for the cost of that enrollment that the local educational agency may otherwise be required to make to the parents may be reduced or denied—

(I) if, 10 business days (including any holidays that occur on a business day) prior to the removal of the child from the public school, the parents do not provide a written statement rejecting the placement proposed by the local educational agency to provide a free appropriate public education to the child; or

(II) upon a judicial finding of unreasonableness with respect to actions taken by the parents.

(11) SEA RESPONSIBLE FOR GENERAL SUPERVISION.—

(A) IN GENERAL.—The State educational agency is responsible for ensuring the following:

(i) REQUIREMENTS.—The requirements of this part are carried out.

(ii) EDUCATIONAL PROGRAMS.—All educational programs for children with disabilities in the State, including all such programs administered by any other State or local agency, are under the general supervision of the persons in the State educational agency who are responsible for educational programs for children with disabilities and meet educational standards of the State educational agency.

(B) SPECIAL RULE.—Subparagraph (A) shall not be construed as limiting the obligations of agencies other than educational agencies to provide, or pay for some or all of the costs of, a free appropriate public education for any child with a disability in the State.

(12) OBLIGATIONS RELATED TO AND METHODS OF ENSURING SERVICES.—

(A) ESTABLISHING RESPONSIBILITY FOR SERVICES.—The Chief Executive Officer of the State or designee of the Chief Executive Officer shall ensure that an interagency agreement or other mechanism for interagency coordination is in effect between each public agency described in subparagraph (B) and the appropriate educational agency within the State, in order to ensure that all services described in subparagraph (B)(i) that are needed to ensure a free appropriate public education are provided, including the provision of such services during the pendency of any dispute under clause (iii). Such agreement or mechanism shall include the following:

(i) AGENCY FINANCIAL RESPONSIBILITY.—An identification of, or a method for defining, the financial responsibility of each agency for providing all services described in subparagraph (B)(i) to ensure a free appropriate public education to children with disabilities provided that the financial responsibility of each public agency described in subparagraph (B) including the State Medicaid agency, and other public or private insurers of children with disabilities (if the filing of claims with such insurers is voluntary on the part of the parents) shall precede the financial responsibility of the local educational agency (or the State agency responsible for developing the child's IEP).

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(ii) CONDITIONS, TERMS, AND PROCEDURES OF REIMBURSEMENT.—The conditions, terms, and procedures under which a local educational agency shall be reimbursed by other agencies.

(iii) INTERAGENCY DISPUTES.—Procedures for resolving interagency disputes (including procedures under which local educational agencies may initiate proceedings) under the agreement or other mechanism to secure reimbursement from other agencies or otherwise implement the provisions of the agreement or mechanism.

(iv) COORDINATION OF SERVICES PROCEDURES.—Policies and procedures for agencies to determine and identify the interagency coordination responsibilities of each agency to promote the coordination and timely delivery of services described in subparagraph (A)(i).

(B) OBLIGATION OF PUBLIC AGENCY.—

(i) IN GENERAL.—If any public agency other than an educational agency is otherwise obligated under Federal or State law, or assigned responsibility under State policy or under subparagraph (A), to provide or pay for any services that are also considered as special education or related services (such as, but not limited to, services described in sections 602(a)(1) relating to assistive technology devices, 602(a)(2) relating to assistive technology services, 602(a)(24) relating to related services, 602(a)(31) relating to supplementary aids and services, and section 602(a)(33) relating to transition services) that are necessary for ensuring a free appropriate public education to children with disabilities within the State, such public agency shall fulfill that obligation or responsibility, either directly or through contract or other arrangement.

(ii) REIMBURSEMENT FOR SERVICES BY PUBLIC AGENCY.—In a case in which a public agency other than an educational agency fails to fulfill the agency's financial responsibility described in subparagraph (A)(i) to provide or pay for the special education or related services described in clause (i) for children with disabilities and the local educational agency (or State agency responsible for developing the child's IEP) provides or pays for such services to such children, the local educational agency (or State agency responsible for developing the child's IEP) may claim reimbursement from such public agency for such services. Such public agency shall reimburse the local educational agency (or State agency responsible for developing the child's IEP) pursuant to the terms of the interagency agreement or other mechanism in effect under subparagraph (A)(i) according to the procedures established pursuant to subparagraph (A)(ii).

(C) SPECIAL RULE.—The requirements of subparagraph (A) may be met through—

(i) State statute or regulation;

(ii) signed agreements between respective agency officials that clearly identify the responsibilities of each agency relating to the provision of services; or

(iii) other appropriate methods as determined by the Chief Executive Officer of the State or designee of the Chief Executive Officer.

(13) LOCAL EDUCATIONAL AGENCY ELIGIBILITY.—The State educational agency will not make a final determination that a local educational agency is not eligible for assistance under this part without first affording the local educational agency reasonable notice and an opportunity for a hearing.

(14) COMPREHENSIVE SYSTEM OF PERSONNEL DEVELOPMENT.—The State has in effect, consistent with the purposes of this Act and with section 676(b)(8), a comprehensive system of personnel development that is designed to ensure an adequate supply of qualified special education and related services personnel necessary to carry out this part and that includes the following:

(A) STATEWIDE DATA.—Statewide data that include the number of personnel providing special education and related services, and of that number, the number of individuals with temporary certification, and the number of vacancies.

(B) PERSONNEL DEVELOPMENT PLAN.—A personnel development plan that meets the following requirements:

(i) CONSULTATIONS.—The plan is developed in consultation with parents of children with disabilities, State and local educational agencies, institutions of higher education, and professional associations.

(ii) PERSONNEL.—The plan addresses or includes the following:

(I) PERSONNEL NEEDS.—The current and projected needs for special education and related services personnel throughout the State.

(II) SERVICE PREPARATION OF PERSONNEL.—The plan addresses the need for the preservice and inservice preparation of personnel throughout the State, including regular education, special education, and related services personnel, to provide educational and related services to children with disabilities.

(III) RECRUITMENT.—The plan includes a system or procedures for recruiting, preparing, and retaining qualified personnel, including personnel with disabilities and personnel from groups that are underrepresented in the field of special education and related services.

(IV) INTEGRATION WITH OTHER PLANS.—The plan is integrated, to the maximum extent possible, with other professional development plans and activities, including plans and activities developed or carried out under other Federal law and State law that address personnel recruitment and training.

(iii) REVISION.—The plan is revised every 3 years.

(15) PERSONNEL STANDARDS.—The State educational agency has established policies and procedures relating to the establishment and maintenance of standards to ensure that personnel necessary to carry out the purposes of this part are appropriately and adequately prepared and trained, including the following:

(A) STANDARDS.—The establishment and maintenance of standards that are consistent with any State approved or recognized certification, licensing, registration, or other comparable requirements that apply to the area in which such personnel are providing special education or related services.

(B) RETRAINING AND HIRING.—To the extent such standards described in subparagraph (A) are not based on the highest requirements in the State applicable to a specific profession or discipline, the State is carrying out measures to require the retraining or hiring of personnel that meet appropriate professional requirements in the State.

(C) USE OF PARAPROFESSIONALS.—Nothing in this Act, including subparagraphs (A) and (B), prohibits the use of paraprofessionals who are appropriately trained and supervised by qualified personnel (in accordance with State law, regulations, or written policy), in meeting the requirements of this part.

(16) PERFORMANCE GOALS AND INDICATORS.—

(A) GOALS.—The State has established goals for the performance of children with disabilities in the State that are consistent with the purposes of section 601(c)(1) and that are consistent, to the maximum extent appropriate, with other goals and standards established by the State.

(B) PERFORMANCE INDICATORS.—The State has established performance indicators that the State will use to assess the progress toward achieving the goals described in subparagraph (A) and that, at a minimum, address the performance of children with disabilities on assessments and the dropout rates and graduation rates of such children.

(C) REPORT.—The State will report every 2 years to the Secretary and the public on the progress of the State, and of children with disabilities in the State, toward meeting the goals established under subparagraph (A).

(17) PARTICIPATION IN ASSESSMENTS.—

(A) ASSESSMENTS.—

(i) STATE AND DISTRICTWIDE ASSESSMENTS.—Children with disabilities are included in general State and districtwide assessment programs, with appropriate accommodations, where necessary.

(ii) ALTERNATE ASSESSMENTS.—The State educational agency or local educational agency, as appropriate, will develop guidelines for the participation of children with disabilities in alternate assessments for such children who cannot participate in State and districtwide assessment programs and as soon as feasible,

but not later than July 1, 1999, will conduct such alternate assessments.

(B) PUBLIC INFORMATION.—The State educational agency shall, as soon as feasible, but not later than July 1, 2000, make reports to the public, with the same frequency and in the same detail as the State makes reports on the assessment of nondisabled children, on the following information with respect to children with disabilities:

(i) REGULAR ASSESSMENTS.—The number of children with disabilities participating in regular assessments.

(ii) ALTERNATE ASSESSMENTS.—The number of such children participating in alternate assessments.

(iii) PERFORMANCE.—The performance of children with disabilities on regular assessments and on alternate assessments when doing so meets generally accepted professional standards and would not result in the disclosure of performance results identifiable to individual children.

(18) USE OF FUNDS.—

(A) IN GENERAL.—

(i) EXPENDITURES.—Funds paid to the State under this part will be expended in accordance with all provisions of this part.

(ii) NONCOMMINGLING.—The funds described in clause (i) will not be commingled with State funds.

(iii) SUPPLEMENT—NOT SUPPLANT.—Except as provided in subparagraph (B), the funds described in clause (i) will be used to supplement State, local, and other Federal funds (including funds not under the direct control of State or local educational agencies) expended for special education and related services, and not to supplant such funds.

(B) WAIVER.—The Secretary may waive, in part, the requirements of clause (iii) of subparagraph (A) if the Secretary determines that the State has provided clear and convincing evidence that all children with disabilities in the State have available a free appropriate public education.

(19) PUBLIC PARTICIPATION.—Prior to the adoption of any policies and procedures needed to comply with this section (including any amendments to such policies and procedures), there are public hearings, adequate notice of the hearings, and an opportunity for comment available to the general public, including individuals with disabilities and parents of children with disabilities. In a case in which policies and procedures have been developed by a State educational agency or through a State legislative hearing and comment process that provides an opportunity for comment by the general public prior to the adoption of any policies and procedures by the State, no further public review or public comment period is required.

(20) STATE ADVISORY PANEL.—

(A) IN GENERAL.—The State has an advisory panel, appointed by the Governor or any other official authorized under State law to make such appointments, that is rep-

resentative of the State population and that is composed of individuals involved in, or concerned with, the education of children with disabilities, including the following:

(i) Parents of children with disabilities.

(ii) Individuals with disabilities.

(iii) Teachers.

(iv) Representatives of institutions of higher education that prepare special education and related services personnel.

(v) State and local education officials.

(vi) Administrators of programs for children with disabilities.

(vii) Representatives of other State agencies involved in the financing or delivery of related services to children with disabilities.

(viii) At least one representative of a vocational, community, or business organization concerned with the provision of transition services to children with disabilities.

(ix) Any other individual, as determined by the State educational agency.

(B) DUTIES.—The advisory panel shall carry out the following duties:

(i) Advise the State educational agency of unmet needs within the State in the education of children with disabilities.

(ii) Comment publicly on any rules or regulations proposed by the State regarding the following:

(I) The education of children with disabilities.

(II) The procedures for distribution of funds received by the State under this part.

(iii) Advise the State educational agency with respect to developing evaluations and reporting on data to the Secretary under section 618.

(iv) Advise the State educational agency with respect to developing corrective action plans to address findings identified in Federal monitoring reports under this part.

(v) Advise the State educational agency with respect to developing and implementing policies relating to the coordination of services for children with disabilities.

(C) CONSOLIDATION OF PANELS.—Any State panel that meets the requirement of section 306 of the Goals 2000: Educate America Act (20 U.S.C. 5886), or any committee of practitioners created under section 1603(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6513(b)), may also serve as the State advisory panel under this part if such State panel or committee meets the requirements of this part.

(b) STATE EDUCATIONAL AGENCY AS PROVIDER OF SERVICES.—If a State educational agency provides free appropriate public education to children with disabilities, or provides such children direct services, the State educational agency—

(1) shall comply with any additional requirements of section 613(a) as if the State educational agency were a local educational agency; and

(2) may use funds that are otherwise available to the State educational agency under this part to serve such children without regard to section 613(a)(3)(B) relating to excess costs.

(c) SUBMISSION OF ELIGIBILITY INFORMATION.—

(1) SUBMISSION OF INFORMATION.—Except as provided in paragraph (2), a State that wishes to establish its eligibility under this section shall submit to the Secretary such information as the Secretary may reasonably require.

(2) EXISTING INFORMATION ON POLICIES AND PROCEDURES.—If a State has on file with the Secretary policies and procedures that demonstrate that the State meets any requirement of this section, including any policies and procedures filed under this part as in effect prior to the date of enactment of the Individuals with Disabilities Education Act Amendments of 1996, the Secretary shall consider the State as meeting that requirement.

(3) MODIFICATIONS OF POLICIES AND PROCEDURES.—The Secretary may require a State to submit additional eligibility information if the State modifies the policies and procedures that the State has filed with the Secretary consistent with paragraphs (1) and (2).

(d) SECRETARIAL APPROVAL.—

(1) IN GENERAL.—If the Secretary determines that a State is eligible under this section, the Secretary shall notify the State of the determination.

(2) LIMITATIONS.—The Secretary shall make a final determination that a State is not eligible under this section only after providing the State—

(A) reasonable notice; and

(B) an opportunity for a hearing.

(e) ASSISTANCE UNDER OTHER FEDERAL PROGRAMS.—Nothing in this Act shall be construed to permit a State to reduce medical and other assistance available, or to alter eligibility, under titles V and XIX of the Social Security Act with respect to the provision of a free appropriate public education for children with disabilities within the State.

(f) BYPASS FOR CHILDREN IN PRIVATE SCHOOLS.—

(1) IN GENERAL.—If, on the date of enactment of the Education of the Handicapped Act Amendments of 1983, a State educational agency was prohibited by law from providing for the participation in special programs of children with disabilities enrolled in private elementary and secondary schools as required by subsection (a)(10)(A), the Secretary shall waive such requirement, and shall arrange for the provision of services to such children through arrangements that shall be subject to the requirements of subsection (a)(10)(A).

(2) FUNDING.—

(A) IN GENERAL.—When the Secretary arranges for services pursuant to this subsection, the Secretary, after consultation with the appropriate public and private school officials, shall pay to the provider of such services an amount

per child that does not exceed the amount determined by dividing—

(i) the total amount received by the State under this part; by

(ii) the number of children with disabilities served by the State in the preceding year as reported to the Secretary under section 618.

(B) WITHHOLDING OF FUNDS.—Pending final resolution of any investigation or complaint that could result in a determination under this subsection that the State is prohibited from complying with subsection (a)(10)(A) by State law, the Secretary may withhold from the allocation of the affected State educational agency the amount the Secretary estimates would be necessary to pay the cost of such services.

(C) DETERMINATIONS BY THE SECRETARY.—Any determination by the Secretary under this subsection shall continue in effect until the Secretary determines that there will no longer be any failure or inability on the part of the State educational agency to meet the requirements of subsection (a)(10)(A).

(3) FINAL ACTION.—

(A) OBJECTIONS.—The Secretary may not take any final action under this subsection until the State educational agency affected by such action has had an opportunity, for at least 45 days after receiving written notice thereof, to submit written objections and to appear before the Secretary or the Secretary's designee to show cause why such action should not be taken.

(B) PETITION FOR REVIEW.—If a State educational agency is dissatisfied with the Secretary's final action after a proceeding under subparagraph (A), the State educational agency may, within 60 days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which the Secretary based the Secretary's action, as provided in section 2112 of title 28, United States Code.

(C) FINDINGS.—The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence. The Secretary may thereupon make new or modified findings of fact and may modify the Secretary's previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(D) COURT'S ACTION.—Upon the filing of a petition under subparagraph (B), the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon cer-

tiorari or certification as provided in section 1254 of title 28, United States Code.

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SEC. 613. LOCAL EDUCATIONAL AGENCY AND STATE AGENCY ELIGIBILITY.

(a) In General.—A local educational agency is eligible for assistance under this part for any fiscal year if the local educational agency demonstrates to the satisfaction of the State educational agency that the local educational agency meets each of the following conditions:

(1) Consistency with state policies.—The local educational agency, in providing for the education of children with disabilities within the jurisdiction of the local educational agency, has in effect policies, procedures, and programs that are consistent with the State policies and procedures established under section 612 with respect to the following:

(A) The availability of a free appropriate public education under section 612(a)(1).

(B) The goal of providing full educational opportunity to all children with disabilities under section 612(a)(2).

(C) The identification, location, and evaluation of children with disabilities under section 612(a)(3).

(D) Individualized education programs under section 612(a)(4).

(E) Education of children in the least restrictive environment under section 612(a)(5).

(F) Procedural safeguards under section 612(a)(6).

(G) Evaluation under section 612(a)(7).

(H) Confidentiality under section 612(a)(8).

(I) Transition of children from early intervention programs under part H to preschool programs under section 612(a)(9).

(J) Children in private schools under section 612(a)(10).

(2) Comprehensive system of personnel development.—The local educational agency, to the extent appropriate, contributes to and uses the State's comprehensive system of personnel development established under section 612(a)(14).

(3) Use of funds.—Funds provided to the local educational agency under this part will be expended or used in the following manner:

(A) Expenditures.—Funds will be expended in accordance with the applicable provisions of this part.

(B) Excess costs.—Funds will be used only to pay the excess costs of providing special education and related services to children with disabilities.

(C) Supplement—not supplant.—Funds will be used to supplement State, local, and other Federal funds and not to supplant such funds.

(D) Level of expenditures.—Except as provided in subparagraph (E), funds will not be used to reduce the level of expenditures for the education of children with disabilities made by the local educational agency from State or

local funds below the level of such expenditures for the preceding fiscal year.

(E) EXCEPTION.—Notwithstanding the limitation in subparagraph (D), a local educational agency may reduce the level of expenditures for the education of children with disabilities if such reduction is the result of—

(i) the voluntary departure, by retirement or otherwise, of special education personnel who are paid at or near the top of the agency's salary scale;

(ii) decreases in enrollment of children with disabilities;

(iii) the end of the agency's obligation, consistent with this part, to provide an exceptionally costly program of special education to a particular child with a disability because the child—

(I) has left the agency's jurisdiction;

(II) has reached the age at which the agency's obligation to provide a free appropriate public education to the child terminates; or

(III) no longer needs the program; or

(iv) the termination of unusually large expenditures for such long-term purposes as the acquisition of equipment and the construction of school facilities.

(4) PERMISSIVE USE OF FUNDS.—Notwithstanding paragraph (3)(B) or section 612(a)(18)(A)(ii) (relating to commingled funds), funds provided to the local educational agency under this part may be used for the following activities:

(A) SERVICES AND AIDS THAT ALSO BENEFIT NONDISABLED CHILDREN.—For the costs of special education and related services and supplementary aids and services provided in a regular class to a child with a disability in accordance with the individualized education program of the child, even if one or more nondisabled children benefit from such services.

(B) SERVICES AND AIDS THAT ALSO BENEFIT OTHER DISABLED CHILDREN.—For the costs of special education and related services and supplementary aids and services provided to a child with a disability in accordance with the individualized education program of the child, even if one or more children with disabilities who are protected by section 504 of the Rehabilitation Act of 1973 and title II of the Americans with Disabilities Act of 1990 benefit from such services.

(C) INTEGRATED AND COORDINATED SERVICES SYSTEM.—To develop and implement a fully integrated and coordinated services system in accordance with subsection (f).

(D) SCHOOL-BASED IMPROVEMENT PLAN.—To design, implement, and evaluate a school-based improvement plan (in accordance with subsection (g)) that is consistent with the purposes described in part C and that is designed to improve educational and transitional results for all children with disabilities and, as appropriate, other children consistent with subparagraphs (A) and (B).

(b) Submission of Information; Prior Local Educational Agency Applications.—

(1) Submission of information.—Except as provided in paragraph (2), a local educational agency that desires to establish its eligibility under this section shall submit to the State educational agency information demonstrating that the local educational agency meets the requirements of subsection (a).

(2) Existing information on policies and procedures.—If a local educational agency has on file with the State educational agency policies and procedures that meet any requirement of this section, including any policies, procedures, or applications filed under this part as in effect before the date of enactment of the Individuals with Disabilities Education Act Amendments of 1996, the State educational agency may consider the local educational agency as meeting such requirement.

(3) Modifications of policies and procedures.—The State educational agency may require a local educational agency to submit additional eligibility information if the local educational agency modifies the policies and procedures that the local educational agency has filed with the State educational agency consistent with paragraphs (1) and (2).

(c) State Educational Agency Approval.—

(1) Determination.—

(A) In general.—If the State educational agency determines that a local educational agency or State agency under subsection (i) is eligible under this section, the State educational agency shall notify the agency of the determination.

(B) Limitation on state notification.—A State educational agency may not give the notice to an agency described under subparagraph (A) until the Secretary has notified the State educational agency that the State is eligible under section 612.

(2) Limitation on final determination.—The State educational agency may not make a final determination that a local educational agency or State agency under subsection (i) is not eligible under this section until after providing the local educational or State agency—

(A) reasonable notice; and

(B) an opportunity for a hearing.

(d) Local Educational Agency and State Agency Compliance.—

(1) In general.—If the State educational agency, after reasonable notice and an opportunity for a hearing, finds that a local educational agency or State agency described in subsection (i) that has been found eligible under this section is not in compliance with any of the eligibility requirements described in subsection (a), the State educational agency shall make no further payments to the local educational agency or State agency under section 620 until the State educational agency has determined that the agency is complying with the eligibility requirements described in subsection (a).

(2) Notification of pendency of action.—Section 616(a) with respect to notification of a pending action shall apply to

any agency that receives a notice from the State educational agency under this subsection.

(3) ADVERSE DECISIONS.—In carrying out its responsibilities under paragraph (1), the State educational agency shall consider any decision made in a hearing held under section 615 that is adverse to the local educational agency or State agency involved in that decision.

(e) JOINT ESTABLISHMENT OF ELIGIBILITY.—

(1) IN GENERAL.—A local educational agency may join with another local educational agency to meet the eligibility requirements of this section if the State educational agency determines that the local educational agency would be ineligible under this section because the local educational agency—

(A) would not be able to establish and maintain programs of sufficient size and scope to effectively meet the needs of children with disabilities; or

(B) does not qualify for the minimum grant under section 611(d)(3)(A), if the State elects to use its authority under such section.

(2) REQUIREMENTS.—

(A) FUNDING.—If a local educational agency joins with another local educational agency to meet the eligibility requirements under paragraph (1), the total amount of funds made available to the affected local educational agencies shall equal the sum of the payments that each such local educational agency would have received under section 611(c) if such local agencies were eligible for such payments.

(B) POLICIES AND PROCEDURES AND ADMINISTRATION OF PROGRAMS.—Local educational agencies that establish joint eligibility under this subsection shall—

(i) adopt policies and procedures that are consistent with the State's policies and procedures under section 612(a); and

(ii) be jointly responsible for implementing programs receiving assistance under this part.

(C) EDUCATIONAL SERVICE AGENCY.—

(i) IN GENERAL.—If an educational service agency is required by State law to carry out this part, the joint responsibilities given to local educational agencies under subparagraph (B)(ii) shall—

(I) not apply to the administration and disbursement of any payments received by that service agency; and

(II) be carried out only by that service agency.

(ii) SPECIAL RULE.—Nothing in this subsection relieves an educational service agency of its responsibility to provide for the education of children with disabilities in the least restrictive environment, as required by section 612(a)(5) and subsection (a)(1)(E).

(f) COORDINATED SERVICES SYSTEM.—

(1) IN GENERAL.—A local educational agency may use not more than 5 percent of the amount the agency receives under this part for any fiscal year, in combination with other funds

(which shall include funds other than education funds), to develop and implement a fully integrated and coordinated service system that links education, health, social welfare services, support systems, private entities, and other community entities in a manner designed to improve educational and transitional results for all children and their families, including all children with disabilities and their families.

(2) Permissible Activities.—Activities that a local educational agency may carry out under this subsection include—

(A) improving the effectiveness and efficiency of service delivery, including developing strategies that promote accountability for the educational and transitional results;

(B) service coordination and case management that facilitate the linkage of individualized education programs under this part and individualized family service plans under part H with individualized service plans under other Federal and State programs, such as title I of the Rehabilitation Act of 1973 (vocational rehabilitation), title XIX of the Social Security Act (Medicaid), and title XVI of the Social Security Act (Supplemental Security Income);

(C) developing and implementing interagency financing strategies for the provision of education, health, mental health, and social services, including transition services and related services under this Act; and

(D) interagency personnel development for the persons involved in the delivery of coordinated services.

(3) Limitation on use of funds.—If a local educational agency is carrying out a coordinated services project under title XI of the Elementary and Secondary Education Act of 1965 and a coordinated services project under this part in the same schools, the local educational agency shall use funds under this subsection in accordance with that title.

(g) School-Based Improvement Plan.—

(1) In general.—Each local educational agency may, in accordance with paragraph (2), use funds made available under this part to permit a public school within the jurisdiction of the local educational agency to design, implement, and evaluate a school-based improvement plan that is consistent with the purposes described in part C and that is designed to improve educational and transitional results for all children with disabilities and, as appropriate, for other children consistent with subsection (a)(4) (A) and (B) in such public school.

(2) Authority.—

(A) In general.—A State educational agency may grant authority to a local educational agency to permit a public school described in paragraph (1) (through a school-based standing panel established under paragraph (4)(B)) to design, implement, and evaluate a school-based improvement plan described in paragraph (1) for a period not to exceed 3 years.

(B) Responsibility of local educational agency.—If a State educational agency grants the authority described in subparagraph (A), a local educational agency that is granted such authority shall have the sole responsibility of *oversight of all activities relating to the design, implementation, and evaluation of any school-based improvement plan that a public school is permitted to design under this subsection.*

(3) PLAN REQUIREMENTS.—A school-based improvement plan described in paragraph (1) shall—

(A) be designed to be consistent with the purposes described in part C and to improve educational and transitional results for all children with disabilities and, as appropriate, for other children consistent with subsection (a)(4) (A) and (B), who attend the school for which the plan is designed and implemented;

(B) be designed, evaluated, and, as appropriate, implemented by a school-based standing panel established in accordance with paragraph (4)(B);

(C) include goals and measurable indicators to assess the progress of the public school in meeting such goals; and

(D) ensure that all children with disabilities receive the same level of services described in the individualized education programs of such children.

(4) RESPONSIBILITIES OF THE LOCAL EDUCATIONAL AGENCY.—A local educational agency that is granted authority under paragraph (2) to permit a public school to design, implement, and evaluate a school-based improvement plan shall—

(A) select each school under the jurisdiction of such agency that is eligible to design, implement, and evaluate such a plan;

(B) require each school selected under subparagraph (A), in accordance with criteria established by such local educational agency under subparagraph (C), to establish a school-based standing panel to carry out the duties described in paragraph (3)(B);

(C) establish—

(i) criteria that shall be used by such local educational agency in the selection of an eligible school under subparagraph (A);

(ii) criteria that shall be used by a public school selected under subparagraph (A) in the establishment of a school-based standing panel to carry out the duties described in paragraph (3)(B) and that shall ensure that the membership of such panel reflects the diversity of the community in which the public school is located and includes, at a minimum—

(I) parents of children with disabilities who attend such public school, including parents of children with disabilities from unserved and underserved populations, as appropriate;

(II) special education and general education teachers of such public school;

(III) special education and general education administrators, or the designee of such administrators, of such public school; and

(IV) related services providers who are responsible for providing services to the children with disabilities who attend such public school; and

(iii) criteria that shall be used by such local educational agency with respect to the distribution of funds under this part to carry out this subsection;

(D) disseminate the criteria established under subparagraph (C) to local school district personnel and local parent organizations within the jurisdiction of such local educational agency;

(E) require a public school that desires to design, implement, and evaluate a school-based improvement plan to submit an application at such time, in such manner, and accompanied by such information as such local educational agency shall reasonably require; and

(F) establish procedures for approval by such local educational agency of a school-based improvement plan designed under this subsection.

(5) LIMITATION.—A school-based improvement plan described in paragraph (1) may be submitted to a local educational agency for approval only if a consensus with respect to any matter relating to the design, implementation, or evaluation of the goals of such plan is reached by the school-based standing panel that designed such plan.

(6) ADDITIONAL REQUIREMENTS.—

(A) PARENTAL INVOLVEMENT.—In carrying out the requirements of this subsection, a local educational agency shall ensure that the parents of children with disabilities are involved in the design, evaluation, and, where appropriate, implementation of school-based improvement plans in accordance with this subsection.

(B) PLAN APPROVAL.—A local educational agency may approve a school-based improvement plan of a public school within the jurisdiction of such agency for a period of 3 years, if—

(i) the approval is consistent with the policies, procedures, and practices established by such local educational agency and in accordance with this subsection; and

(ii) a majority of parents of children who are members of the school-based standing panel, and a majority of other members of the school-based standing panel, that designed such plan agree in writing to such plan.

(7) EXTENSION OF PLAN.—If a public school within the jurisdiction of a local educational agency meets the applicable requirements and criteria described in paragraphs (3) and (4) at the expiration of the 3-year approval period described in paragraph (6)(B), such agency may approve a school-based improvement plan of such school for an additional 3-year period.

(h) DIRECT SERVICES BY THE STATE EDUCATIONAL AGENCY.—

(1) IN GENERAL.—A State educational agency shall use the payments that would otherwise have been available to a local educational agency or to a State agency described in subsection (i) to provide special education and related services directly to

children with disabilities residing in the area served by that local agency, or for whom that State agency is responsible, if the State educational agency determines that—

(A) the local educational agency or the State agency—

(i) has not provided the information needed to establish the eligibility of the local educational agency or the State agency under this section; or

(ii) is unable or unwilling to establish and maintain programs of free appropriate public education that meet the requirements of subsection (a); or

(B) the local educational agency—

(i) is unable or unwilling to be consolidated with other local educational agencies in order to establish and maintain such programs; or

(ii) has one or more children with disabilities who can best be served by a regional or State program or service delivery system designed to meet the needs of such children.

(2) METHOD OF PROVISION OF SERVICES.—The State educational agency may provide special education and related services under paragraph (1) in such manner and at such locations (including regional or State centers) as the State educational agency considers appropriate, so long as the education and services are provided in accordance with this part.

(i) STATE AGENCY ELIGIBILITY.—Any State agency that received funds for fiscal year 1994 under subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (as such subpart was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994) and desires to receive a subgrant for any fiscal year under section 611(c) or 619(g) shall demonstrate to the satisfaction of the State educational agency that—

(1) all children with disabilities who are participating in programs and projects funded under this part receive a free appropriate public education, and that the children and their parents are provided all the rights and procedural safeguards described in this part; and

(2) the State agency meets such other conditions of this section as the Secretary finds appropriate.

SEC. 614. EVALUATIONS, INDIVIDUALIZED EDUCATION PROGRAMS, AND EDUCATIONAL PLACEMENTS.

(a) IN GENERAL.—

(1) INITIAL EVALUATIONS.—

(A) IN GENERAL.—A local educational agency shall conduct a comprehensive initial evaluation, in accordance with this paragraph and subsections (b) and (c), before the initial provision of special education and related services to a child with a disability.

(B) PROCEDURES.—An initial evaluation shall include procedures to—

(i) determine whether a child is a child with a disability as defined in section 602(a)(4); and

(ii) determine the educational needs of the child.

(C) PARENTAL CONSENT.—

(i) IN GENERAL.—A local educational agency proposing to conduct an initial evaluation to determine if a child qualifies as a child with a disability as defined in section 602(a)(4) shall, prior to such evaluation, obtain informed consent from the parents of the child.

(ii) REFUSAL.—If the parents of such child refuse to consent to an evaluation described in clause (i), a local educational agency may, but shall not be required to, continue to pursue the evaluation through the mediation procedures under section 615(e) and due process procedures under section 615(f).

(2) REEVALUATIONS.—

(A) IN GENERAL.—A local educational agency shall ensure that a reevaluation of each child with a disability is conducted—

(i) whenever the child's parents or teacher, other school personnel, or other appropriate individuals, request the reevaluation; or

(ii) at a natural transition point for the child.

(B) DEFINITION.—For the purpose of subparagraph (A), the term 'natural transition point' means the period that is close in time to the transition of a child with a disability—

(i) from preschool to elementary grades;

(ii) from elementary grades to middle or junior high school grades (except that for a transition that will not occur for a period of 5 years or more, the natural transition point shall be at least every 3 years);

(iii) from middle or junior high school grades to high school grades; and

(iv) from high school grades to postschool activities.

(C) CONDUCT OF REEVALUATION.—Each reevaluation shall be conducted in accordance with subsections (b) and (c).

(b) EVALUATION PROCEDURES.—

(1) IN GENERAL.—The local educational agency shall provide notice to the parents of a child with a disability, in accordance with subsections (b)(3), (b)(4), and (c) of section 615, that describes any evaluation procedures the local educational agency proposes to conduct.

(2) METHOD OF EVALUATION.—In conducting the evaluation, the local educational agency shall—

(A) use—

(i) a variety of assessment tools and strategies to gather relevant functional and developmental information (including evaluations and information provided by the child's parents) that may assist in determining whether the child is a child with a disability; and

(ii) the content of the individualized education program of the child, including information related to enabling the child to participate and achieve in the general education curriculum or, for a child who is in preschool, in developmentally appropriate activities; and

(B) not use any single procedure as the sole criterion for determining—

(i) whether a child is a child with a disability; or

(ii) an appropriate educational program for the child.

(3) EVALUATION TESTS AND MATERIALS.—Each local educational agency shall ensure that—

(A) tests and other evaluation materials used to assess a child under this section are—

(i) selected and administered so as not to be racially or culturally discriminatory;

(ii) provided and administered in the native language of the child or other mode of communication unless it is clearly not feasible to do so; and

(iii) consistent with generally accepted professional standards for assessments; and

(B) any standardized tests that are given to the child—

(i) have been validated for the specific purpose for which the tests are used;

(ii) are administered by trained personnel; and

(iii) are administered in accordance with any instructions provided by the producer of the tests.

(4) SPECIAL RULE ON TESTS.—Tests shall provide relevant information that directly assists persons involved in providing services to a child with a disability in determining the educational needs of the child, including information with respect to instructional strategies and content that should be reflected in the individualized education program of such child.

(c) ADDITIONAL REQUIREMENTS FOR EVALUATIONS AND REEVALUATIONS.—

(1) REVIEW OF EXISTING EVALUATION DATA.—As part of an initial evaluation (if appropriate) and as part of any reevaluation under this section, the following tasks shall be carried out:

(A) A review of existing evaluation data on the child, including evaluations and information provided by the parents of the child, and current classroom-based assessments and observation.

(B) On the basis of the review, the professional judgment of appropriate individuals, and the input from the parents of the child, an identification of what additional data, if any, are needed to determine—

(i) whether the child has a particular category of disability, as described in section 602(a)(4)(A)(i), or, in the case of a reevaluation of a child, whether the child continues to have such a disability;

(ii) the present levels of performance and educational needs of the child;

(iii) whether the child needs special education and related services, or in the case of a reevaluation of a child, whether the child continues to need special education and related services; and

(iv) whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual objectives set out in the individualized education program of the

child and to participate, as appropriate, in the general education curriculum.

(2) SOURCE OF DATA.—The local educational agency shall administer such tests and other evaluation materials as may be needed to produce the data identified under paragraph (1)(B).

(3) ADDITIONAL DATA.—If it is determined by appropriate individuals based on their professional judgment that no additional data are needed to determine a factor described in clause (i), (ii), (iii), or (iv) of paragraph (1)(B), the local educational agency—

(A) shall notify the parents of the child of—

(i) the results of the determination of the individuals and the reasons for the determination; and

(ii) the right of the parents to request that additional data be obtained for use in making a determination with respect to a factor; and

(B) is not required to obtain the additional data described in clause (ii) of subparagraph (A) unless requested by the parents.

(d) INDIVIDUALIZED EDUCATION PROGRAMS.—

(1) IEP TO BE IN EFFECT AT THE BEGINNING OF EACH SCHOOL YEAR.—

(A) IN GENERAL.—At the beginning of each school year, each local educational agency shall have in effect an individualized education program for each child with a disability.

(B) IEP FOR A CHILD AGED 3 THROUGH 5.—In the case of a child with a disability aged 3 through 5 (or, at the discretion of the State educational agency, a 2-year-old child with disabilities who will turn age 3 during the school year), an IFSP that contains the material described in section 677(d) and that is developed in accordance with this section may serve as the IEP of the child if using the plan as the IEP is—

(i) consistent with State policy; and

(ii) agreed to by the agency and the parents of the child.

(2) IEP TEAM.—The IEP of each child shall be developed in a meeting by a team (hereafter in this section referred to as the 'IEP team'), composed of—

(A) a representative of the local educational agency who is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities, and who is knowledgeable about the general education curriculum;

(B) at least one special education provider who is knowledgeable about the disability of the child, such as, if appropriate, the special education teacher of the child;

(C) to the extent appropriate, at least one regular education teacher who knows the child or is familiar with the curriculum of the child, if the child is, or may be, participating in the regular education environment;

(D) the parents of the child;

(E) when appropriate, the child;

(F) an individual who is capable of interpreting the instructional implications of evaluation results; and

(G) at the discretion of the parents or the agency, other individuals, such as related services personnel, who have special expertise or special knowledge regarding the child's abilities and disability.

The team member described in subparagraph (F) may be an existing team member described in subparagraphs (A) through (C), if the existing team member is qualified to interpret the results described in subparagraph (F).

(3) DEVELOPMENT OF THE IEP.—

(A) IN GENERAL.—In developing each child's IEP, the IEP team shall consider—

(i) the strengths of the child and the concerns of the parents for enhancing the education of their child; and

(ii) the results of the initial evaluation or most recent reevaluation of the child.

(B) CONSIDERATION OF SPECIAL FACTORS.—In the case of a child whose behavior impedes the learning of the child or that of others, the IEP team, as appropriate, shall consider strategies, including behavior management plans, to address that behavior.

(e) CONTENT OF IEP.—

(1) IN GENERAL.—The IEP of each child with a disability shall include the following:

(A) PRESENT LEVELS OF EDUCATIONAL PERFORMANCE.—A statement of the present levels of educational performance of the child, including how the disability of the child affects the progress of the child in the general education curriculum (or, for a preschool child, as appropriate, how the disability of the child affects the progress of the child in developmentally appropriate activities related to transition to kindergarten and elementary school).

(B) MEASURABLE ANNUAL OBJECTIVES.—A statement of measurable annual objectives related to meeting each of the educational needs of the child that result from the disability of the child, including objectives related to enabling the child to progress in the general education curriculum at the educationally appropriate level for the child.

(C) SPECIAL EDUCATION AND RELATED SERVICES.—A statement of the special education and related services and supplementary aids and services to be provided to the child and any program modifications necessary for the child to attain the annual objectives, to progress in the general education curriculum, to participate in extracurricular and nonacademic activities and other educational activities, and to be educated and participate with other children with disabilities and nondisabled children in the activities described in this subparagraph.

(D) EXTENT OF PARTICIPATION WITH NONDISABLED CHILDREN.—A statement of the extent to which the child will participate with nondisabled children in the regular class and in the activities described in subparagraph (C).

(E) PARTICIPATION IN GENERAL ASSESSMENTS.—

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(i) MODIFICATIONS.—A statement of any modifications in the administration of State or districtwide assessments that are needed in order for the child to participate in the assessments.

(ii) NONPARTICIPATION.—If a child will not participate in a particular State or districtwide assessment (or part of such assessment), a statement of why the assessment is not appropriate for the child and how the child will be assessed.

(F) PROJECTED DATES, FREQUENCY, AND DURATION OF SERVICES.—The projected date for the beginning of the services and program modifications described in subparagraph (C), and the anticipated frequency and duration of such services and modifications.

(G) INFORMATION ABOUT THE CHILD'S PROGRESS.—A statement of how the progress of the child toward the measurable annual objectives will be measured through benchmarks or other measurable indicators of progress, and how the parents of the child will be regularly informed of the child's progress, in accordance with subsection (f).

(2) ADDITIONAL IEP REQUIREMENTS FOR A CHILD WITH A DISABILITY WHO IS OF SECONDARY SCHOOL AGE.—

(A) IN GENERAL.—The IEP for each student who is a child with a disability and who is of secondary school age (hereafter in this section referred to as the 'student') shall include additional information related to transition services and the transfer of rights at the age of majority, as described in subparagraphs (B) through (D).

(B) ADDRESSING THE STUDENT'S TRANSITION NEEDS.—For a student aged 14 through 21 (or younger than age 14 if determined appropriate by the IEP team), the transition services needs of the student shall be considered and, as appropriate, addressed under the applicable components of the student's IEP described in paragraph (1) relating to present levels of educational performance, measurable annual objectives, special education and related services, and other applicable components.

(C) STATEMENT OF TRANSITION SERVICES AND SUPPORTS.—

(i) IN GENERAL.—In meeting the requirements of subparagraph (B), the IEP team shall give consideration to the student's participation in the general education curriculum (such as participation in advanced-placement courses or a vocational education or school-to-work program, or independent living skills training, which lead to successful transition from secondary school to postschool adult environments).

(ii) TRANSITION SERVICES STATEMENT.—Beginning no later than age 16, the student's IEP shall include a statement of needed transition services as defined in section 602(33) including, where appropriate, a statement of the interagency responsibilities and needed linkages among agencies to ensure delivery of services before the student leaves the school setting.

(D) Transfer of rights at the age of majority.—Beginning at least 1 year before the student reaches the age of majority under State law, the IEP shall include a statement about the rights under this Act, if any, that will transfer to the student on reaching the age of majority under section 615(j).

(f) Reporting Each Child's Progress Toward Objectives.—The local educational agency shall ensure that—

(1) the parents of each child with a disability are informed of the progress of the child, toward the measurable annual objectives, and the extent to which such progress is sufficient to enable the child to achieve the objectives by the end of the school year; and

(2) in implementing the requirement in paragraph (1), the parents are informed (by periodic report cards or other appropriate means) at least as often as parents of nondisabled children are informed of the progress of their nondisabled children.

(g) Review and Revision of IEP.—The local educational agency shall ensure that the IEP team for each child—

(1) reviews the child's IEP periodically, but not less than annually, to determine whether the annual objectives for the child are being achieved; and

(2) revises the IEP, as appropriate.

(h) Failure To Meet Transition Objectives.—If an entity (other than the local educational agency) involved in planning or providing transition services to a child with a disability fails to provide the transition services described in the IEP in accordance with subsection (e)(2)(A), the local educational agency shall reconvene the IEP team to identify alternative strategies to meet the transition objectives for the student set forth in the IEP.

(i) Construction Clause.—Nothing in this section shall be construed to require the IEP team to include information under one component of a child's IEP that is already contained under another component of such IEP.

(j) Placements.—Each local educational agency shall ensure that the parents of each child with a disability are members of any group that makes decisions on the educational placement of their child.

* * * * * * *

[TREATMENT OF CHAPTER 1 STATE AGENCIES

[Sec. 614A. (a) For the purpose of making payments under sections 611 and 619 of this Act, any State agency that received funds for fiscal year 1994 under subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (as such subpart was in existence on the day preceding the date of enactment of the Improving America's Schools Act of 1994) shall be treated as if the State agency were a local educational agency.

[(b) Any State agency which desires to receive payments under section 611(d) and section 619(c)(3) for any fiscal year shall submit an application to the State educational agency. Such application shall—

[(1) include an assurance that all children with disabilities who are participating in programs and projects funded under this part receive a free appropriate public education, and that such children and their parents are provided all the rights and procedural safeguards described in this part; and

[(2) meet those requirements of section 614 that the Secretary finds appropriate.

[(c) Section 611(c)(4) shall not apply with respect to a State agency that is eligible for a payment under this part by application of this section.]

* * * * * * *

SEC. 615. (a) ESTABLISHMENT AND MAINTENANCE. [Any State educational agency, any local educational agency, and any intermediate educational unit which] *Any State educational agency or local educational agency that* receives assistance under this part shall establish and maintain procedures in accordance with [subsection (b) through subsection (e) of] this section to assure that children with disabilities and their parents [or guardians] are guaranteed procedural safeguards with respect to the provision of free appropriate public education by such agencies [and units].

[(b)(1) The] *(b) The* procedures required by this section shall include, but shall not be limited to—

[(A) an opportunity for the parents or guardian] *(1) an opportunity for the parents* of a child with a disability to examine all relevant records with respect to the identification, evaluation, and educational placement of the child, and the provision of a free appropriate public education to such child, and to obtain an independent educational evaluation of the child;

[(2) Whenever a complaint has been received under paragraph (1) of this subsection, the parents or guardian shall have an opportunity for an impartial due process hearing which shall be conducted by the State educational agency or by the local educational agency or intermediate educational unit, as determined by State law or by the State educational agency. No hearing conducted pursuant to the requirements of this paragraph shall be conducted by an employee of such agency or unit involved in the education or care of the child.]

[(B) procedures] *(2) procedures* to protect the rights of the child whenever the parents [or guardian] of the child are not known, unavailable, or the child is a ward of the State, including the assignment of an individual (who shall not be an employee of the State educational agency, [local educational agency, or intermediate educational unit] *the local educational agency, or any other agency that is* involved in the education or care of the child) to act as a surrogate for the parents [or guardian];

[(C) written prior notice to the parents or guardian of the child whenever such agency or unit] *(3) written prior notice in accordance with subsection (c) to the parents of the child whenever such agency—*

[(i) proposes] *(A) proposes* to initiate or change, or

[(ii) refuses] *(B) refuses* to initiate or change, the identification, evaluation, or educational placement of the child or the provision of a free appropriate [public education to the child] *public education to the child, in accordance with subsection (c);*

[(D) procedures designed to assure that the notice required by clause (C) fully informs the parents or guardian, in the parents' or guardian's native language, unless it clearly is not feasible to do so, of all procedures available pursuant to this section; and]

(4) procedures designed to ensure that the notice required by paragraph (3) is provided in the native language of the parents or other mode of communication used by the parents, unless it clearly is not feasible to do so;

(5) an opportunity for mediation in accordance with subsection (e); and

[(E) an opportunity] *(6) an opportunity* to present complaints with respect to any matter relating to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to such child.

* * * * * * *

(c)(1) The notice required by subsection (b)(3) with respect to the proposal or refusal to initiate or change the identification, evaluation, or educational placement of a child described in such subsection or the provision of a free appropriate public education to such child shall—

(A) include—

(i) a description of the action proposed or refused by the agency;

(ii) an explanation of why the agency proposes or refuses to take the action; and

(iii) a description of any other options that the agency considered and the reasons why the options were not chosen;

(B) describe each evaluation procedure, test, record, or report that the agency used as a basis for the proposed or refused action;

(C) describe any other factors that are relevant to the proposal or refusal of the agency;

(D) include a full explanation of the procedural safeguards available under this section and section 615A, and under the regulations of the Secretary, relating to independent educational evaluations, notice, parental consent, mediation, and the placement of the child during the pendency of due process proceedings;

(E) include at least a brief summary of the procedural safeguards under this section and section 615A relating to due process hearings, State-level appeals (if applicable in that State), civil actions, and attorneys' fees and a brief summary of the provisions of section 612(a)(10)(C) relating to reimbursement of parents for unilateral placement of their children in private schools at public expense;

(F) include a statement that the agency will provide a full explanation of—

(i) the procedural safeguards available to parents under this section and section 615A, and under the regulations of the Secretary, relating to—

(I) access to educational records, whenever requested by the parents; and

(II) the hearings, appeals, actions, and fees described in subparagraph (E), whenever the parents request such explanation or file a complaint under subsection (b)(6); and

(ii) the provisions of section 612(a)(10)(C) relating to reimbursement of parents for unilateral placement of their children in private schools at public expense, whenever requested by the parents; and

(G) include the name, address, and telephone number of the Parent Information and Training Center in the State and other resources in the State that will assist a parent to understand the protections and opportunities under this part.

(2) Each State educational agency and each local educational agency that receives assistance under this part shall provide the explanation described in paragraph (1)(F) in the cases described in such paragraph.

(d)(1) The parents of a child with a disability or a suspected disability shall provide to the local educational agency written notice of their intention to file a complaint (other than a request for an expedited due process hearing under section 615A) under subsection (b)(6) regarding the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education to the child, 10 business days (including holidays that occur on a business day) prior to the date of the filing of the complaint if—

(A) the parents have new information regarding the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education to the child; or

(B) the parents are initiating a complaint about the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education to the child and the parents have signed the most recent IEP of the child that is currently being implemented.

(2) Prior to filing a complaint, if the parents have new information regarding the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education to the child, the parents shall provide the information to the local educational agency along with the notice of their intent to file a complaint.

(3) If the parents were duly informed by the local educational agency with respect to their obligation to file a notice of intention to file a complaint under this subsection and the parents fail to provide such notice, a court, in its discretion, may reduce an award of attorneys' fees and reimbursement of related costs if within 10 business days (including holidays that occur on a business day) after filing a request for an administrative due process hearing under section 615(f), the matter relating to the complaint is resolved in a manner that is satisfactory to all parties.

(e)(1) Each State educational agency shall ensure that procedures are established and implemented to allow parties to disputes involving matters described in subsection (b)(6) to resolve such disputes through mediation.

(2)(A) The procedures described in paragraph (1) shall ensure—

(i) that whenever a hearing is requested on any matter in dispute under subsection (b)(6), the parents are offered an opportunity for mediation to resolve the dispute;

(ii) that mediation—

(I) is voluntary on the part of the parents and may be waived by the parents at any time during such process;

(II) is not used to deny a parent the right of a, or delay access by a parent to, due process hearings under subsection (f) or to deny the parents any other rights afforded under this part; and

(III) is conducted by a qualified and impartial mediator who is not an employee of a local educational agency or State agency described in section 613(i) that is involved in the education or care of the child or who is not a person having a personal or professional conflict of interest;

(iii) that mediators are appointed from the list described in subparagraph (B)(i);

(iv) that whenever a mediator is not selected on a random basis, both the parents and the local educational agency are involved in selecting the mediator and are in agreement with the individual who is selected;

(v) that each session in the mediation process shall be scheduled in a timely manner and shall be held in a location that is convenient and accessible to the parties to the dispute;

(vi) that no statements made by either party during the mediation under this subsection shall be offered or used as evidence in any hearing, review of a hearing decision, or civil action under this section; and

(vii) that an agreement reached by the parties to the dispute in the mediation process shall be set forth in a written mediation agreement.

(B)(i) Each State educational agency shall compile and maintain a list of individuals who are—

(I) trained in mediation; and

(II) knowledgeable about the educational needs of children with disabilities and applicable statutes and regulations relating to the educational rights of such children, including the requirements of this part and the regulations of the Secretary under this part.

(ii) The State educational agency shall ensure that mediation will be provided to parents at no cost.

(3) If a State has on file with the Secretary documentation that the State has an established mediation process that is comparable to the mediation process described in this subsection, the mediation process of the State shall be considered to be in compliance with this subsection. Not later than 4 years after the date of enactment of the Individuals with Disabilities Education Act Amendments of 1996, such State shall establish a mediation process program that complies with the requirements of this subsection.

(4) Nothing in this part shall prohibit employees or former employees of a State educational agency from serving as mediators in resolving disputes about any matter described in subsection (b)(6), unless the dispute directly involves such agency.

(f) Whenever a complaint has been received under subsection (b)(6), the parents shall have an opportunity for an impartial due process hearing that shall be conducted by the State educational agency or by the local educational agency, as determined by State law or by the State educational agency. No hearing conducted pursuant to the requirements of this subsection shall be conducted by an employee of such agency involved in the education or care of the child."; and

* * * * * * *

(j)(1) Subject to the provisions of paragraph (2), any State that receives funds under this part may provide that, when a student with a disability reaches the age of majority under State law—

(A) the local educational agency shall provide any notice required by this section to both the individual and the parents;

(B) all other rights accorded to parents under this part transfer to the child; and

(C) the local educational agency shall notify the individual and the parents of the transfer of rights.

(2) If, under State law, a student described in paragraph (1) is determined to not have the ability to provide informed consent with respect to the educational program of the student, the State shall have in effect procedures for appointing the parent or other individual to represent the educational interests of the student throughout the student's eligibility under this part.

* * * * * * *

[(c)] *(g)* Review of local decision by State educational agency. If the hearing required in [paragraph (2) of subsection (b)] *subsection (f)* of this section is conducted by a local educational agency [or an intermediate educational unit], any party aggrieved by the findings and decision rendered in such a hearing may appeal to the State educational agency which shall conduct an impartial review of such hearing. The officer conducting such review shall make an independent decision on completion of such review.

[(d)] *(h)* Enumeration of rights accorded parties to hearings. Any party to any hearing conducted pursuant to [subsections (b) and (c)] *subsections (f) and (g)* shall be accorded—

* * * * * * *

(4) the right to written findings of fact and decisions (which findings and decisions shall be made available to the public consistent with the requirements of section 617(c) and shall also be transmitted to the advisory panel established pursuant to [section 613(a)(12)] *section 612(a)(20).*

* * * * * * *

[(e)] *(i)* Civil action; jurisdiction.—

(1) A decision made in a hearing conducted pursuant to [paragraph (2) of subsection (b)] *subsection (f)* shall be final, except that any party involved in such hearing may appeal such decision under the provisions of subsection (c) and paragraph (2) of this subsection. A decision made under subsection (c) shall be final, except that any party may bring an action under paragraph (2) of this subsection.

(2) Any party aggrieved by the findings and [decision made under subsection (b)] *decision made under subsection (f)* who does not have the right to an appeal under [subsection (c)] *subsection (g),* and any party aggrieved by the findings and decision under [subsection (c)] *subsection (g),* shall have the right to bring a civil action with respect to the complaint presented pursuant to this section, which action may be brought in any State court of competent jurisdiction or in a district court of the United States without regard to the amount in controversy. In an action brought under this paragraph the court shall receive the records of the administrative proceedings, shall hear additional evidence at the request of a party, and, basing its decision on the preponderance of the evidence, shall grant such relief as the court determines is appropriate.

[(3)(A) Except as provided in subparagraph (B),] *(3) Except as provided in subsections (c) and (d) of section 615A* during the pendancy of any proceedings conducted pursuant to this section, unless the State or local educational agency and the parents [or guardian] otherwise agree, the child shall remain in the then current educational placement of such child, or, if applying for initial admission to a public school, shall, with the consent of the parents [or guardian], be placed in the public school program until all such proceedings have been completed.

[(B)(i) Except as provided in clause (iii), if the proceedings conducted pursuant to this section involve a child with a disability who is determined to have brought a weapon to school under the jurisdiction of such agency, then the child may be placed in an interim alternative educational setting, in accordance with State law, for not more than 45 days.

[(ii) The interim alternative educational setting described in clause (i) shall be decided by the individuals described in section 602(a)(20).

[(iii) If a parent or guardian of a child describe in clause (i) requests a due process hearing pursuant to paragraph (2) of subsection (b), then the child shall remain in alternative educational setting described in such clause during the pendency of any proceedings conducted pursuant to this section, unless the parents and the local educational agency agree otherwise.

[(iv) For the purpose of this section, the term "weapon" means a firearm as such term is defined in section 921 of title 18, United States Code.]

(4)(A) The district courts of the United States shall have jurisdiction of actions brought under [this subsection] *this subsection and section 615A* without regard to the amount in controversy.

(4)(B) In any action or proceeding brought under [this subsection] *this subsection and section 615A,* the court, in its discretion, may award reasonable attorneys' fees as part of the costs to the parents [or guardian] of a child or youth with a disability who is the prevailing party.

(C) [For the purpose of this subsection, fees] *Fees* awarded [under this subsection] *under this subsection and section 615A* shall be based on rates prevailing in the community in which the action or proceeding arose for the kind and quality of services furnished. No bonus or multiplier may be used in calculating the fees awarded [under this subsection] *under this subsection and section 615A.*

(D) [No award of attorneys' fees and related costs may be made] *Except as provided in subparagraph (E), attorneys' fees may not be awarded and related costs may not be reimbursed* in any action or proceeding [under this subsection] *under this subsection and section 615A* for services performed subsequent to the time of a written offer of settlement to a parent [or guardian], if—

* * * * * * *

(iii) the court or administrative officer finds that the relief finally obtained by the parents [or guardian] is not more favorable to the parents [or guardian] than the offer of settlement.

(E) [Notwithstanding the provisions of subparagraph (D)] *Notwithstanding subparagraph (D),* an award of attorneys' fees and related costs may be made to a parent [or guardian] who is the prevailing party and who was substantially justified in rejecting the settlement offer.

[(F) Whenever] *(F) Except as provided in subparagraph (G), whenever* the court finds that—

(i) the parent [or guardian], during the course of the action or proceeding, unreasonably protracted the final resolution of the controversy;

* * * * * * *

(H) For the purpose of this section, the amount of any award of attorneys' fees to a prevailing party under this section shall be determined in accordance with the law established by the Supreme Court in Hensley v. Eckerhart, 461 U.S. 424 (1983).

(I) For the purpose of this section, an IEP meeting shall not, in and of itself, be deemed to be a proceeding triggering the awarding of attorneys' fees.

[(f)] *(k)* Effect on other laws. Nothing in this title shall be construed to restrict or limit the rights, procedures, and remedies available under the Constitution, title V of the Rehabilitation Act of 1973, or other Federal statutes protecting the rights of children and youth with disabilities, except that before the filing of a civil action under such laws seeking relief that is also available under this part, the procedures under [subsections (b)(2) and (c)] *subsections (f) and (g)* shall be exhausted to the same extent as would be required had the action been brought under this part.

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SEC. 615A. ALTERNATE PROCEDURAL SAFEGUARDS.

(a) SHORT-TERM DISCIPLINARY ACTIONS (UP TO 10 SCHOOL DAYS).—If a child with a disability engages in behavior that is a violation of the rules or code of conduct of the local educational agency, and if the rules or code of conduct of the agency also applies to children without disabilities who engage in the behavior, agency personnel with the authority to do so, may—

(1) utilize disciplinary measures such as detention, timeouts, increased supervision, and restriction of privileges or extracurricular activities, provided that any disciplinary measures

that are inconsistent with the child's IEP shall be for no more than 10 school days; or

(2) suspend the child for no more than 10 school days.

(b) Long-Term Disciplinary Actions; Manifestation Determination.—

(1) Change of placement.—If a child with a disability engages in any of the behaviors described in subsection (c)(1)(A) involving dangerous weapons, drugs, or behavior resulting in serious bodily injury or engages in ongoing serious disruptive behavior as described in subsection (d)(1)(A), the child may be placed in an interim alternative educational setting, in accordance with the provisions of subsections (c) and (d), regardless of whether or not the behavior is a manifestation of the disability of the child.

(2) Disciplinary measures applicable to all children.—

(A) In general.—Subject to the limitation described in subparagraph (B), a local educational agency may, consistent with section 615(b), use long-term disciplinary measures (for more than 10 school days) to address the behavior of a child with a disability that is a violation of the rules or code of conduct of the agency, if the behavior was not a manifestation of the disability of the child, and if the rules or code of conduct also applies to children without disabilities who engage in the same behavior.

(B) Provision of educational services.—In the case of a child with a disability who engages in behavior that violates the rules or code of conduct of the local educational agency, the child shall continue to receive educational services, consistent with the provision of a free appropriate public education, unless the child was determined to be involved with dangerous weapons or drugs, as described in subsection (c)(1)(A), the behavior of the child was not a manifestation of the disability of the child, and the policy of the agency is to cease educational services to any child determined to be involved with such weapons or drugs.

(3) Manifestation determination.—Before subjecting a child with a disability to the same long-term disciplinary measures (including the ceasing of educational services as described in subparagraph (B)) that apply to children without disabilities, the child's IEP team shall determine, in accordance with the standards and considerations in paragraphs (4) and (5), whether the behavior of the child was a manifestation of the disability of the child.

(4) Standards.—In making the determination described in paragraph (3), the child's IEP team shall determine whether, in the context in which the behavior occurred, the disability of the child—

(A) impaired the ability of the child to understand the impact and consequences of such behavior; or

(B) impaired the ability of the child to control the behavior at issue.

(5) Considerations.—In determining whether the standards in paragraph (4) are met, the child's IEP team shall consider relevant information pertinent to the behavior at issue and the

determination to be made pursuant to paragraph (3), including—

(A) the context in which the behavior occurred and whether the child exhibited similar behavior in the past;

(B) evaluation and diagnostic results, including such results or other relevant information supplied by the parents of the child;

(C) the appropriateness of the child's IEP and placement; and

(D) the extent to which the child's IEP—

(i) has been implemented; and

(ii) includes the provision of special education and related services, and the use of supplementary aids and services, strategies and interventions, and behavior management techniques.

(6) PROCEEDINGS.—

(A) EXPEDITED DUE PROCESS HEARING.—If the parents of the child do not agree with the determination described in paragraph (3), the parents may request that a due process hearing under section 615(f) be conducted on an expedited basis.

(B) PENDENCY.—During the pendency of any actions or proceedings to resolve a disagreement by the parents, the child shall continue to receive educational services, consistent with the provision of a free appropriate public education to the child.

(c) CONDITIONS THAT APPLY WHEN DANGEROUS WEAPONS, DRUGS, OR SERIOUS BODILY INJURY ARE INVOLVED.—

(1) PROGRAM MODIFICATIONS.—

(A) SETTING.—If a child with a disability, on school premises or at a school-sponsored event under the jurisdiction of a local educational agency—

(i) has a dangerous weapon in the child's possession;

(ii) engages in the illegal use, possession, or distribution of drugs; or

(iii) engages in behavior that results in serious bodily injury, or is substantially likely to result in such injury,

the child may be placed in an interim alternative educational setting, regardless of whether or not the behavior is a manifestation of the disability of the child, if the conditions in subparagraph (B) are met.

(B) ROLE OF PRINCIPAL AND IEP TEAM.—The child described in subparagraph (A) may be removed to an interim alternative educational setting, if—

(i) the principal, after consultation with individuals who witnessed the child exhibit any of the behaviors described in subparagraph (A) and individuals who have knowledge of the disability of the child (including the chairperson of the child's IEP team and the agency's director of special education or the designees of the chairperson and director), determines, in writing, that the child engaged in a behavior described in subparagraph (A) and that the disciplinary code of the local educational agency is to be applied; and

(ii) the child's IEP team assesses the child, and identifies modifications in the IEP of the child that are consistent with the provision of a free appropriate public education to the child, which may include placement of the child in an interim alternative educational setting.

(C) TIME LINES.—

(i) DETERMINATION BY PRINCIPAL.—The determination by the principal described in subparagraph (B)(i) shall be made as soon as possible, but not later than 10 school days after the date on which the behavior described in subparagraph (A) became known to the principal.

(ii) PLACEMENT DECISION.—

(I) PRELIMINARY DECISION.—Within the 10-day period described in clause (i), the child's IEP team shall make a preliminary decision regarding placement of the child, which may include placement of the child in an interim alternative educational setting.

(II) FINAL DECISION.—A final placement decision by the child's IEP team, which may include placement of the child in an interim alternative educational setting, shall, to the maximum extent feasible, be made within the 10-day period described in clause (i).

(iii) PLACEMENT LIMITATION.—In no case shall placement of the child in an interim alternative educational setting pursuant to this subsection be made more than 20 school days after the date on which the behavior described in subparagraph (A) became known to the principal.

(D) STATUS OF CHILD IF TIME LINES ARE NOT MET.—If the determination of the principal (described in subparagraph (B)(i)) and the actions of the child's IEP team (described in subparagraph (B)(ii)) do not occur within the time period referred to in subparagraph (C), the educational placement of the child shall be the educational placement described in the child's current IEP, unless the parents of the child and the agency agree otherwise.

(2) INFORMATION TO BE CONSIDERED BY IEP TEAM IN DETERMINING CHILD'S PLACEMENT.—In determining an appropriate placement for a child who engaged in any behavior described in paragraph (1)(A), the child's IEP team shall—

(A) include an individual (who may be an existing member of the child's IEP team) who is qualified to assess the relationship between the disability of the child, the behavior of the child, and the context in which the behavior occurred;

(B) at a minimum, consider—

(i) the information described in subsection (b)(5);

(ii) information based on observation by a person knowledgeable about the child and the disability of the child, including, to the extent possible, observation in the environment in which the behavior occurred; and

(iii) if available, voluntary statements from the parents of the child, and from any individual who was injured (and if the individual injured is a child, the individual's parents); and

(C) make necessary modifications in the child's IEP related to the provision of special education and related services, the use of supplementary aids and services, and strategies and interventions (including the use of behavior management plans) that are likely to contribute to the elimination of the recurrence of the behavior at issue by the child.

(3) DISAGREEMENT BETWEEN AGENCY AND PARENTS REGARDING DANGEROUS WEAPONS, DRUGS, OR SERIOUS BODILY INJURY.—

(A) DUE PROCESS HEARING.—If the parents of a child disagree with a determination made by the principal under paragraph (1)(B)(i) or the action of the IEP team under paragraph (1)(B)(ii) to place the child in an interim alternative educational setting or the recommendations of the child's IEP team regarding the provision of a free appropriate public education pursuant to paragraph (1)(B)(ii) the parents may request that a due process hearing under section 615(f) be conducted on an expedited basis.

(B) CONSIDERATIONS.—In making a determination regarding such a disagreement, the hearing officer shall consider, at a minimum—

(i) the determination of the principal described in paragraph (1)(B)(i);

(ii) information considered by the child's IEP team under paragraphs (1)(B)(ii) and (2); and

(iii) whether the child's IEP team met its responsibilities under paragraph (4), if appropriate.

(C) PLACEMENT DURING DISPUTE.—During the pendency of any actions or proceedings to resolve a disagreement described in subparagraph (A), the child shall remain in the interim alternative educational setting, unless the parents and the State or local educational agency agree otherwise.

(4) REVIEW OF CHILD'S PLACEMENT IN INTERIM ALTERNATIVE EDUCATIONAL SETTING.—Not later than 35 school days after the placement in an interim alternative educational setting of a child who engaged in any behavior described in paragraph (1)(A) (or earlier, if specified in the child's IEP), the child's IEP team shall—

(A) review the progress of the child in the interim alternative educational setting;

(B) determine an appropriate educational placement based on a revised IEP, if appropriate; and

(C) secure the placement of the child in the appropriate educational placement, consistent with the provisions of this part, for the remainder of the school year or for the beginning of the next school year, whichever is appropriate.

(d) CONDITIONS THAT APPLY WHEN SERIOUS DISRUPTIVE BEHAVIOR IS INVOLVED.—

(1) PLACEMENT IN INTERIM ALTERNATIVE EDUCATIONAL SETTING.—

(A) REMOVAL OF A CHILD TO AN INTERIM ALTERNATIVE EDUCATIONAL SETTING.—If a child with a disability, on school premises, engages in ongoing serious disruptive behavior that significantly impairs the education of the child

or the education of other children and the ability of the teacher of the child to teach, the child may be placed in an interim alternative educational setting, if the conditions in subparagraph (B) are met.

(B) ROLE OF PRINCIPAL AND IEP TEAM.—

(i) IN GENERAL.—A child described in subparagraph (A) may be removed to an interim alternative educational setting if, consistent with the requirements of paragraph (2)(B)(i) and subparagraphs (A) and (B) of paragraph (3)—

(I) the principal, after consultation with individuals who have knowledge of the disability of the child (including the chairperson of the child's IEP team, the agency's director of special education or the designees of the chairperson and director, and the teacher most knowledgeable about the child), determines in writing that the continued presence of the child in the child's current educational placement would significantly impair the education of the child or the classmates of the child and the ability of the teacher of the child to teach; and

(II) the child's IEP team develops a placement in an interim alternative educational setting, consistent with the provision of a free appropriate public education to the child.

(ii) CONSTRUCTION CLAUSE.—A child shall not be determined to be seriously disruptive on the basis of unreasonable considerations, such as—

(I) myths or stereotypes about disability;

(II) a lack of understanding of the nature of the disability or the effect of the disability on behavior;

(III) a disruption caused by devices, accommodations, auxiliary aids or services used by a child with a disability; or

(IV) behavior that has not been addressed by special education and related services as provided by paragraph (3)(B).

(C) TIMELINE FOR ACTION.—

(i) IN GENERAL.—If a child described in subparagraph (A) was subjected to short-term disciplinary measures lasting for any period up to 10 school days as described in subsection (a), the determination of the principal under subparagraph (B)(i)(I) and the actions of the IEP team under subparagraph (B)(i)(II) shall occur within that 10-day period.

(ii) STATUS OF CHILD IF TIME LINE IS NOT MET.—If the determination of the principal under subparagraph (B)(i)(I) and the actions of the IEP team described in subparagraph (B)(i)(II) do not occur within the 10-school-day time period described in clause (i), the educational placement of the child shall be the placement described in the child's current IEP, unless the parents of the child and the agency agree otherwise.

(2) DISAGREEMENT BETWEEN AGENCY AND PARENTS WHEN SERIOUS DISRUPTIVE BEHAVIOR IS INVOLVED.—

(A) HEARING OFFICER DETERMINATION.—If the parents of the child disagree with the determination made by the principal under paragraph (1)(B)(i)(I) or the action of the IEP team described under paragraph (1)(B)(i)(II), a hearing officer shall make a determination whether the removal of the child to an interim alternative educational setting was justified by the serious disruptive behavior of the child. The determination of the hearing officer shall be made not later than 10 school days after the child's parents communicate to the principal the parent's disagreement with the determination of the principal or the action of the IEP team. If exceptional circumstances exist, such as the unavailability of a hearing officer, the determination of the hearing officer shall be made not later than 20 school days after the child's parents communicate to the principal such disagreement. A hearing officer may grant additional extensions of time for a hearing determination if the school district and parents agree otherwise.

(B) LIMITATIONS.—

(i) CONSIDERATION OF RECORD ON THE CHILD.—In making a determination on whether removal of a child with a disability to an interim alternative educational setting is justified, the principal and the IEP team (and, in situations involving a disagreement, the hearing officer) shall consider the record described in paragraph (3).

(ii) FAILURE TO MAKE A DETERMINATION.—If the determination of the hearing officer is not made within the time period described in subparagraph (A), the educational placement of the child shall be the placement described in the prior IEP of the child, unless the parents of the child and the agency agree otherwise.

(C) DUE PROCESS HEARING; PENDENCY.—If either the parents of the child or the local educational agency disagrees with the determination of the hearing officer and requests a due process hearing pursuant to section 615(f), then the educational placement of the child shall be the placement determined by the hearing officer during the pendency of any actions or proceedings, unless the parents and the agency agree otherwise.

(3) SPECIAL RECORD FOR A CHILD WITH A DISABILITY WHO IS SERIOUSLY DISRUPTIVE.—In order for the principal and the IEP team or a hearing officer to determine under this subsection that a child with a disability is engaging in ongoing serious disruptive behavior that significantly impairs the education of the child or the education of other children and the ability of the teacher of the child to teach, the following information must have been documented:

(A) CUMULATIVE RECORD OF BEHAVIOR.—A cumulative record over an extended period of time describing frequent behaviors exhibited by the child that prevent the child, the classmates of the child, or the teacher of the child from en-

gaging in the activities that would have occurred in the absence of serious disruptive behavior of the child.

(B) Documented evidence of efforts to address the behavior.—Documented evidence of efforts to address the behavior of the child, including—

(i) the reconvening of the child's IEP team to consider the appropriateness of the child's IEP;

(ii) the provision of special education and related services;

(iii) the use of supplemental services and strategies (including the use of behavior management plans) that have been implemented over a reasonable period of time and have failed to address the needs of the child in a manner that would enable the child to remain in the current educational placement of the child without significantly impairing the education of the child or the classmates of the child and the ability of the teacher of the child to teach; and

(iv) the training made available to the child's classroom teachers.

(4) Information to be considered by IEP team when serious disruptive behavior is involved.—In determining an appropriate placement for a child with a disability who engaged in a serious disruptive behavior described in paragraph (1)(A), the child's IEP team shall consider the information about the child required in subsection (c)(2)(B), and make necessary modifications in the child's IEP, as described in subsection (c)(2)(C).

(5) Review of progress of the child.—The child's IEP team shall review the progress of the child, in accordance with the procedures and time lines in subsection (c)(4).

(e) Definitions; Construction.—

(1) Dangerous weapon.—For the purpose of this section, the term "dangerous weapon" means a weapon, device, instrument, material or substance, animate or inanimate, that is used for or is readily capable of causing death or serious bodily injury.

(2) Drug.—For the purpose of this section, the term "drug" means a drug or other substance identified under schedules I, II, III, IV, and V in section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)).

(3) Illegal use of drugs.—For the purpose of this section, the term "illegal use of drugs" shall not be construed to include the use of a drug taken under the supervision of a licensed health care professional, or other uses authorized by the Controlled Substances Act or other provisions of Federal law.

(4) Serious bodily injury.—For the purpose of this section, the term "serious bodily injury" means injury that involves a substantial risk of death, extreme physical pain, an obvious or protracted disfigurement, or a protracted loss or impairment of a bodily member, organ, or mental faculty that is the result of a physical or sexual assault that also may have significantly endangered emotional health or safety.

(f) Timing and Effect of Assertion of a Child's Disability.—

(1) PROTECTION STATUS OF A CHILD NOT YET FOUND ELIGIBLE FOR SPECIAL EDUCATION AND RELATED SERVICES.—A child who has not been determined to be eligible for special education and related services under this part and who engages in behavior that is a violation of the rules or code of conduct of the local educational agency, including a child who engages in any of the behaviors described in subsections (c) and (d), may assert the protections authorized under this part, if the local educational agency had knowledge that the child was a child with a disability before the behavior that precipitated the disciplinary action occurred.

(2) BASIS OF AN AGENCY'S KNOWLEDGE OF A CHILD'S DISABILITY.—If the parents of a child described in paragraph (1) expressed concern, in writing, if practicable, to appropriate educational agency personnel about the need of the child for special education and related services or the behavior of the child which would demonstrate the need for such services, or the teacher of the child or other personnel expressed concern about the behavior of the child which would demonstrate the need for such services or the needs of the child to the agency's director of special education or other agency staff or the parents, then such agency shall be deemed to have knowledge of a disability of a child. A request by the parents under this paragraph may include but not be limited to a parental request for an evaluation of their child to determine the eligibility of the child for special education and related services.

(3) CONDITIONS THAT APPLY WHEN AN AGENCY HAD NO KNOWLEDGE OF A DISABILITY OF A CHILD.—

(A) IN GENERAL.—Subject to the requirement of subparagraph (B), if a local educational agency does not have knowledge of a disability of a child as described in paragraph (2) prior to taking disciplinary measures against the child, the child may be subjected to the same disciplinary measures as children without disabilities, who engaged in comparable behaviors.

(B) LIMITATIONS.—If a request is made for evaluation of a child during the time period in which the child is subjected to disciplinary measures under subparagraph (A), the evaluation shall be conducted in an expedited manner. If the child is determined to be a child with a disability, taking into consideration information from the evaluation conducted by the agency and information provided by the parents, such agency shall provide special education and related services in accordance with the provisions of this part. Pending the results of the evaluation, the placement of the child shall be the placement determined by the school authorities.

(g) REFERRAL TO AND ACTIONS BY LAW ENFORCEMENT AND JUDICIAL AUTHORITIES.—Nothing in this part shall be construed to prohibit an agency from reporting a crime committed by a child with a disability to appropriate authorities or to prevent State law enforcement and judicial authorities from exercising their responsibilities with regard to the application of Federal and State law to crimes committed by a child with a disability.

(h) DEFINITIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the definitions used in section 602 (as in effect on the day before the date of enactment of the Individuals with Disabilities Education Act Amendments of 1996) shall apply to this section.

(2) EXCEPTION.—The terms "behavior management plan", "child with a disability", "educational service agency", "local educational agency", "parent", and "supplementary aids and services" shall have the meanings given such terms in section 602 (as amended by section 102 of the Individuals with Disabilities Education Act Amendments of 1996).

* * * * * * *

[WITHHOLDING AND JUDICIAL REVIEW

[SEC. 616. (a) Whenever the Secretary, after reasonable notice and opportunity for hearing to the State educational agency involved (and to any local educational agency or intermediate educational unit affected by any failure described in clause (2)), finds—

[(1) that there has been a failure to comply substantially with any provision of section 612 or section 613, or

[(2) that in the administration of the State plan there is a failure to comply with any provision of this part or with any requirements set forth in the application of a local educational agency or intermediate educational unit approved by the State educational agency pursuant to the State plan, the Secretary—

[(A) shall, after notifying the State educational agency, withhold any further payments to the State under this part, and

[(B) may, after notifying the State educational agency, withhold further payments to the State under the Federal programs specified in section 613(a)(2) within the Secretary's jurisdiction, to the extent that funds under such programs are available for the provision of assistance for the education of children with disabilities.

If the Secretary withholds further payments under clause (A) or clause (B) the Secretary may determine that such withholding will be limited to programs or projects under the State plan, or portions thereof, affected by the failure, or that the State educational agency shall not make further payments under this part to specified local educational agencies or intermediate educational units affected by the failure. Until the Secretary is satisfied that there is no longer any failure to comply with the provisions of this part, as specified in clause (1) or clause (2), no further payments shall be made to the State under this part or under the Federal programs specified in section 613(a)(2) within the Secretary's jurisdiction to the extent that funds under such programs are available for the provision of assistance for the education of children with disabilities, or payments by the State educational agency under this part shall be limited to local educational agencies and intermediate educational units whose actions did not cause or were not involved in the failure, as the case may be. Any State educational agency, local educational agency, or intermediate educational unit in receipt of a notice pursuant to the first sentence of this subsection shall, by means of a public notice, take such measures as may be necessary to bring the pendency of an action pursuant to this subsection to the attention of the public within the jurisdiction of such agency or unit.

[(b)(1) If any State is dissatisfied with the Secretary's final action with respect to its State plan submitted under section 613, such State may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings upon which the Secretary's action was based, as provided in section 2112 of title 28, United States Code.

[(2) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify the Secretary's previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

[(3) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

[ADMINISTRATION

[SEC. 617. (a)(1) In carrying out the Secretary's duties under this part, the Secretary shall—

[(A) cooperate with, and furnish all technical assistance necessary, directly or by grant or contract, to the States in matters relating to the education of children with disabilities and the execution of the provisions of this part;

[(B) provide such short-term training programs and institutes as are necessary;

[(C) disseminate information, and otherwise promote the education of handicapped children within the States; and

[(D) assure that each State shall, within one year after the date of the enactment of the Education for All Handicapped Children Act of 1975 and every year thereafter, provide certification of the actual number of children with disabilities receiving special education and related services in such State.

[(2) As soon as practicable after the date of the enactment of the Education for All Handicapped Children Act of 1975, the Secretary shall, by regulation, prescribe a uniform financial report to be utilized by State educational agencies in submitting plans under this part in order to assure equity among the States.

[(b) In carrying out the provisions of this part, the Secretary shall issue, not later than January 1, 1977, amend, and revoke such rules and regulations as may be necessary. No other less formal method of implementing such provisions is authorized.

[(c) The Secretary shall take appropriate action, in accordance with the provisions of section 438 of the General Education Provisions Act, to assure the protection of the confidentiality of any personally identifiable data, information, and records collected or maintained by the Secretary and by State and local educational agencies pursuant to the provisions of this part.

[(d) The Secretary is authorized to hire qualified personnel necessary to conduct data collection and evaluation activities required by [subsections (b), (c) and (d) of] section 618 and to carry out the Secretary's duties under subsection (a)(1) of this subsection without regard to the provisions of title 5, United States Code, relating to appointments in the competitive service and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and general schedule pay rates except that no more than twenty such personnel shall be employed at any time.

[EVALUATION AND PROGRAM INFORMATION

[SEC. 618. (a) The Secretary shall, directly or by grant, contract, or cooperative agreement, collect data and conduct studies, investigations, analyses, and evaluations—

[(1) to assess progress in the implementation of this Act;

[(2) to assess the impact and effectiveness of State and local efforts, and efforts by the Secretary of the Interior, to provide—

[(A) free appropriate public education to children and youth with disabilities; and

[(B) early intervention services to infants and toddlers with disabilities; and

[(3) to provide—

[(A) Congress with information relevant to policymaking; and

[(B) State, local, and Federal agencies, including the Department of the Interior, with information relevant to program management, administration, delivery, and effectiveness with respect to such education and early intervention services.

[(b)(1) In carrying out subsection (a), the Secretary, on at least an annual basis (except as provided in subparagraph (E)), shall obtain data concerning programs and projects assisted under this Act and under other Federal laws relating to infants, toddlers, children, and youth with disabilities, and such additional information, from State and local educational agencies, the Secretary of the Interior, and other appropriate sources, including designated lead agencies under part H (except that during fiscal year 1992 such entities may not under this subsection be required to provide data regarding traumatic brain injury or autism), including—

[(A) the number of infants, toddlers, children, and youth with disabilities in each State receiving a free appropriate public education or early intervention services—

[(i) in age groups 0–2 and 3–5, and

[(ii) in age groups 6–11, 12–17, and 18–21, by disability category;

[(B) the number of children and youth with disabilities in each State, by disability category, who—

[(i) are participating in regular educational programs (consistent with the requirements of section 612(5)(B) and 614(a)(1)(C)(iv);

[(ii) are in separate classes, separate schools or facilities, or public or private residential facilities; or

[(iii) have been otherwise removed from the regular education environment;

[(C) the number of children and youth with disabilities exiting the educational system each year through program completion or otherwise, by disability category, for each year of age from age 14 through 21;

[(D) the number and type of personnel that are employed in the provision of—

[(i) special education and related services to children and youth with disabilities, by disability category served; and

[(ii) early intervention services to infants and toddlers with disabilities; and

[(E) at least every three years, using the data collection method the Secretary finds most appropriate, a description of the services expected to be needed, by disability category, for youth with disabilities in age groups 12–17 and 18–21 who have left the educational system.

[(2) Beginning with fiscal year 1993, the Secretary shall obtain and report data from the States under section 613(a)(3)(A), including data addressing current and projected special education and related services needs, and data on the number of personnel who are employed on an emergency, provisional, or other basis, who do not hold appropriate State certification or licensure, and other data for the purpose of meeting the requirements of this subsection pertaining to special education and related services personnel.

[(3) The Secretary shall provide, directly or by grant, contract, or cooperative agreement, technical assistance to State agencies providing the data described in paragraphs (1) and (2) to achieve accurate and comparable information.

[(c)(1) The Secretary shall make grants to, or enter into contracts or cooperative agreements with, State or local educational agencies, institutions of higher education, public agencies, and private nonprofit organizations, and, when necessary because of the unique nature of the study, private-for-profit organizations, for the purpose of conducting studies, analyses, syntheses, and investigations for improving program management, administration, delivery, and effectiveness necessary to provide full educational opportunities and early interventions for all children with disabilities from birth through age 21. Such studies and investigations shall gather information necessary for program and system improvements including—

[(A) developing effective, appropriate criteria and procedures to identify, evaluate, and serve infants, toddlers, children, and youth with disabilities from minority backgrounds for purposes of program eligibility, program planning, delivery of services, program placement, and parental involvement;

[(B) planning and developing effective early intervention services, special education, and related services to meet the complex and changing needs of infants, toddlers, children, and youth with disabilities;

[(C) developing and implementing a comprehensive system of personnel development needed to provide qualified personnel in sufficient number to deliver special education, related services, and early intervention services;

[(D) developing the capacity to implement practices having the potential to integrate children with disabilities, to the maximum extent appropriate, with children who are not disabled;

[(E) effectively allocating and using human and fiscal resources for providing early intervention, special education, and related services;

[(F) strengthening programs and services to improve the progress of children and youth with disabilities while in special education, and to effect a successful transition when such children and youth leave special education;

[(G) achieving interagency coordination to maximize resource utilization and continuity in services provided to infants, toddlers, children, and youth with disabilities;

[(H) strengthening parent-school communication and coordination to improve the effectiveness of planning and delivery of interventions and instruction, thereby enhancing development and educational progress; and

[(I) the identification of environmental, organizational, resource, and other conditions necessary for effective professional practice.

[(2)(A) The studies and investigations authorized under this subsection may be conducted through surveys, interviews, case studies, program implementation studies, secondary data analyses and syntheses, and other appropriate methodologies.

[(B) The studies and investigations conducted under this subsection shall address the information needs of State and local educational agencies for improving program management, administration, delivery, and effectiveness.

[(3) The Secretary shall develop and implement a process for the on-going identification of national program information needed for improving the management, administration, delivery, and effectiveness of programs and services provided under this Act. The process shall identify implementation issues, desired improvements, and information needed by State and local agencies to achieve such improvements, and shall be conducted in cooperation with State educational agencies that can ensure broad-based statewide input from each cooperating State. The Secretary shall publish for public comment in the Federal Register every 3 years a program information plan describing such information needs. Such program information plan shall be used to determine the priorities for, and activities carried out under, this subsection to produce, organize, and increase utilization of program information. Such program information plan shall be included in the annual report submitted under section 618 every 3 years.

[(4) In providing funds under this subsection, the Secretary shall require recipients to prepare their procedures, findings, and other relevant information in a form that will maximize their dissemination and use, especially through dissemination networks and mechanisms authorized by this Act, and in a form for inclusion in the annual report to Congress authorized under subsection (g).

[(d)(1) The Secretary shall enter into cooperative agreements with State educational agencies and other State agencies to carry out studies to assess the impact and effectiveness of programs, policies, and procedures assisted under this Act.

[(2) The agreements referred to in paragraph (1) shall—

[(A) provide for the payment of not more than 60 percent of the total cost of studies conducted by a participating State agency to assess the impact and effectiveness of this Act; and

[(B) be developed in consultation with the State Advisory Panel established under section 613(a)(12), local educational agencies, and others involved in, or concerned with, the education of children and youth with disabilities and the provision of early intervention services to infants and toddlers with disabilities.

[(3) The Secretary shall provide technical assistance to participating State agencies in the implementation of the study design, analysis, and reporting procedures.

[(e)(1) The Secretary shall by grant, contract, or cooperative agreement, provide for special studies to assess progress in the implementation of this Act, and to assess the impact and effectiveness of State and local efforts and efforts by the Secretary of the Interior to provide free appropriate public education to children and youth with disabilities, and early intervention services to infants and toddlers with disabilities. Reports from such studies shall include recommendations for improving programs and services to such individuals. The Secretary shall, beginning in fiscal year 1993 and for every third year thereafter, submit to the appropriate committees of each House of the Congress and publish in the Federal Register proposed priorities for review and comment.

[(2) In selecting priorities for fiscal years 1991 through 1994, the Secretary may give first consideration to—

[(A) completing a longitudinal study of a sample of students with disabilities, examining—

[(i) the full range of disabling conditions;

[(ii) the educational progress of students with disabilities while in special education; and

[(iii) the occupational, educational, and independent living status of students with disabilities after graduating from secondary school or otherwise leaving special education.

[(B) conducting pursuant to this subsection a nationally representative study focusing on the types, number, and intensity of related services provided to children with disabilities by disability category.

[(C) conducting pursuant to this subsection a study that examines the degree of disparity among States which regard to the placement in various educational settings of children and youth with similar disabilities, especially those with mental retardation, and, to the extent such disparity exists, the factors that lead such children and youth to be educated in significantly different educational settings.

[(D) conducting pursuant to this subsection a study that examines the factors that have contributed to the decline in the number of children classified as mentally retarded since the implementation of this Act, and examines the current disparity among States in the percentage of children so classified.

[(E) conducting pursuant to this subsection a study that examines the extent to which out-of-community residential programs are used for children and youth who are seriously emotionally disturbed, the factors that influence the selection of such placements, the degree to which such individuals transition back to education programs to their communities, and the factors that facilitate or impede such transition.

[(F) conducting pursuant to this subsection a study that examines (i) the factors that influence the referral and placement decisions and types of placements, by disability category and English language proficiency, of minority children relative to other children, (ii) the extent to which these children are placed in regular education environments, (iii) the extent to which the parents of these children are involved in placement decisions and in the development and implementation of the individualized education program and the results of such participation, and (iv) the type of support provided to parents of these children that enable these parents to understand and participate in the educational process.

[(f) The Secretary shall make grants to, or enter into contracts or cooperative agreements with, State or local educational agencies, institutions of higher education, other public agencies, and private nonprofit organizations to support activities that organize, synthesize, interpret, and integrate information obtained under subsections (c) and (e) with relevant knowledge obtained from other sources. Such activities shall include the selection and design of content, formats, and means for communicating such information effectively to specific or general audiences, in order to promote the use of such information in improving program administration and management, and service delivery and effectiveness.

[(g)(1)(A) The Secretary is authorized to conduct activities, directly or by grant, contract, or cooperative agreement, to prepare an annual report on the progress being made toward the provision of—

[(i) a free appropriate public education to all children and youth with disabilities; and

[(ii) early intervention services for infants and toddlers with disabilities.

[(B) Not later than 120 days after the close of each fiscal year, the Secretary shall transmit a copy of the report authorized under subparagraph (A) to the appropriate committees of each House of Congress. The annual report shall be published and disseminated in sufficient quantities to the education and disability communities and to other interested parties.

[(2) The Secretary shall include each annual report under paragraph (1)—

[(A) a compilation and analysis of data gathered under subsection (b) and under part H; and

[(B) a description of findings and determinations resulting from monitoring reviews of State implementation of this part.

[(3) In the annual report under paragraph (1) for fiscal year 1991 (which is published in 1992) and for every third year thereafter, the Secretary shall include in the annual report—

[(A) an index of all current projects funded under parts C through G; and

[(B) data reported under sections 622 and 634.

[(4) The Secretary shall include in each annual report under paragraph (1) the results of research and related activities conducted under part E that the Secretary determines are relevant to the effective implementation of this Act.

[(5) The Secretary shall, in consultation with the National Council on Disability and the Bureau of Indian Affairs Advisory Committee for Exceptional Children, include a description of the status of early intervention services for infants and toddlers with disabilities from birth through age 2, and special education and related services to children with disabilities from 3 through 5 years of age (including those receiving services through Head Start, developmental disabilities programs, crippled children's services, mental health/mental retardation agencies, and State child-development centers and private agencies under contract with local schools).

[(h) There are authorized to be appropriated $12,000,000 for fiscal year 1991 and such sums as may be necessary for fiscal years 1992 through 1994 to carry out the purposes of this section and not more than 30 percent may be used to carry out the purposes of subsection (e) of this section.

[PRESCHOOL GRANTS

[SEC. 619. (a)(1) For fiscal years 1987 through 1989 (or fiscal year 1990 if the Secretary makes a grant under this paragraph for such fiscal year) the Secretary shall make a grant to any State which—

[(A) has met the eligibility requirements of section 612,

[(B) has a State plan approved under section 613, and

[(C) provides special education and related services to children with disabilities aged three to five, inclusive.

[(2)(A) For fiscal year 1987 the amount of a grant to a State under paragraph (1) may not exceed—

[(i) $300 per child with a disability aged three to five, inclusive, who received special education and related services in such State as determined under section 611(a)(3), or

[(ii) if the amount appropriated under subsection (e) exceeds the product of $300 and the total number of children with disabilities aged three to five, inclusive, who received special education and related services as determined under section 611(a)(3)—

[(I) $300 per child with a disability aged three to five, inclusive, who received special education and related services in such State as determined under section 611(a)(3), plus

[(II) an amount equal to the portion of the appropriation available after allocating funds to all States under subclause (I) (the excess appropriation) divided by the estimated increase, from the preceding fiscal year, in the number of children with disabilities aged three to five, inclusive, who will be receiving special education and related services in all States multiplied by the estimated increase in the number of such children in such State.

[(B) For fiscal year 1988, funds shall be distributed in accordance with clause (i) or (ii) of paragraph (2)(A), except that the amount specified therein shall be $400 instead of $300.

[(C) For fiscal year 1989, funds shall be distributed in accordance with clause (i) or (ii) of paragraph (2)(A), except that the amount specified therein shall be $500 instead of $300.

[(D) If the Secretary makes a grant under paragraph (1) for fiscal year 1990, the amount of a grant to a State under such paragraph may not exceed $1,000 per child with a disability aged three to five, inclusive, who received special education and related services in such State as determined under section 611(a)(3).

[(E) If the actual number of additional children served in a fiscal year differs for the estimate made under subparagraph (A)(ii)(II), the Secretary shall adjust (upwards or downwards) a State's allotment in the subsequent fiscal year.

[(F)(i) The amount of a grant under subparagraph (A), (B), or (C) to any State for a fiscal year may not exceed $3,800 per estimated child with a disability aged three to five, inclusive, who will be receiving or child with a disability, age three to five, inclusive, who is receiving special education and related services in such State.

[(ii) If the amount appropriated under subsection (e) for any fiscal year exceeds the amount of grants which may be made to the States for such fiscal year, the excess amount appropriated shall remain available for obligation under this section for 2 succeeding fiscal years.

[(3) To receive a grant under paragraph (1) a State shall make an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

[(b)(1) For fiscal year 1990 (or fiscal year 1991 if required by paragraph (2)) and fiscal years thereafter the Secretary shall make a grant to any State which—

[(A) has met the eligibility requirements of section 612, and

[(B) has a State plan approved under section 613 which includes policies and procedures that assure the availability under the State law and practice of such State of a free appropriate public education for all children with disabilities aged three to five, inclusive, and for any two-year-old children provided services by the State under subsection (c)(2)(B)(iii) or by a local educational agency or intermediate educational unit under subsection (f)(2).

[(2) The Secretary may make a grant under paragraph (1) only for fiscal year 1990 and fiscal years thereafter, except that if—

[(A) the aggregate amount that was appropriated under subsection (e) for fiscal years 1987, 1988, and 1989 was less than $656,000,000, or

[(B) the amount appropriated for fiscal year 1990 under subsection (e) is less than $306,000,000.

the Secretary may not make a grant under paragraph (1) until fiscal year 1991 and shall make a grant under subsection (a)(1) for fiscal year 1990.

[(3) The amount of any grant to any State under paragraph (1) for any fiscal year may not exceed $1,500 for each child with a disability in such State aged three to five, inclusive.

[(4) To receive a grant under paragraph (1) a State shall make an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

[(c)(1) For fiscal year 1987, a State which receives a grant under subsection (a)(1) shall—

[(A) distribute at least 70 percent of such grant to local educational agencies and intermediate educational units in such State in accordance with paragraph (3), except that in applying such section only children with disabilities aged three to five, inclusive, shall be considered.

[(B) use not more than 25 percent of such grant for the planning and development of a comprehensive delivery system for which a grant could have been made under section 623(b) in effect through fiscal year 1987 and for direct and support services for children with disabilities, and

[(C) use not more than 5 percent of such grant for administrative expenses related to the grant.

[(2) For fiscal years beginning after fiscal year 1987, a State which receives a grant under subsection (a)(1) or (b)(1) shall—

[(A) distribute at least 75 percent of such grant to local educational agencies and intermediate educational units in such State in accordance with paragraph (3), except that in applying such section only children with disabilities aged three to five, inclusive, shall be considered,

[(B) use not more than 20 percent of such grant—

[(i) for planning and development of a comprehensive delivery system,

[(ii) for direct and support services for children with disabilities, aged 3 to 5, inclusive, and

[(iii) at the State's discretion, to provide a free appropriate public education, in accordance with this Act, to 2-year-old children with disabilities who will reach age 3 during the school year, whether or not such children are receiving, or have received, services under part H, and

[(C) use not more than 5 percent of such grant for administrative expenses related to the grant.

[(3) From the amount of funds available to local educational agencies and intermediate educational units in any State under this section, each local educational agency or intermediate educational unit shall be entitled to—

[(A) an amount which bears the same ratio to the amount available under subsection (a)(2)(A)(i) or subsection (a)(2)(A)(ii)(I), as the case may be, as the number of children with disabilities aged three to five, inclusive, who received special education and related services as determined under section 611(a)(3) in such local educational agency or intermediate educational unit bears to the aggregate number of children with disabilities aged three to five, inclusive, who received special education and related services in all local educational agencies and intermediate educational units in the State entitled to funds under this section, and

[(B) to the extent funds are available under subsection (a)(2)(A)(ii)(II), an amount which bears the same ratio to the amount of such funds as the estimated number of additional children with disabilities aged three to five, inclusive, who will be receiving special education and related services in such local educational agency or intermediate educational unit bears to the aggregate number of such children in all local educational agencies and intermediate educational units in the State entitled to funds under this section.

[(d) If the sums appropriated under subsection (e) for any fiscal year for making payments to States under subsection (a)(1) or (b)(1) are not sufficient to pay in full the maximum amounts which all States may receive under such subsection for such fiscal year, the maximum amounts which all States may receive under such subsection for such fiscal year shall be ratably reduced by first ratably reducing amounts computed under the excess appropriation provision of subsection (a)(2)(A)(ii)(II). If additional funds become available for making such payments for any fiscal year during which the preceding sentence is applicable, the reduced maximum amounts shall be increased on the same basis as they were reduced.

[(e) For grants under subsections (a)(1) and (b)(1) there are authorized to be appropriated such sums as may be necessary.

[(f) Each local educational agency or intermediate educational unit receiving funds under this section—

[(1) shall use such funds to provide special education and related services to children with disabilities aged 3 to 5, inclusive, and

[(2) may, if consistent with State policy, use such funds to provide a free appropriate public education, in accordance with this part, to 2-year-old children with disabilities who will reach age 3 during the school year, whether or not such children are receiving, or have received, services under part H.

[(g) Part H of this Act does not apply to any child with disabilities receiving a free appropriate public education, in accordance with this part, with funds received under this section.

[PAYMENTS

[SEC. 620. (a) The Secretary shall make payments to each State in amounts which the State educational agency of such State is eligible to receive under this part. Any State educational agency receiving payments under this subsection shall distribute payments to the local educational agencies and intermediate educational units of such State in amounts which such agencies and units are eligible to receive under this part after the State educational agency has approved applications of such agencies or units for payments in accordance with section 614(b).

[(b) Payments under this part may be made in advance or by way of reimbursement and in such installments as the Secretary may determine necessary.]

SEC. 616. WITHHOLDING AND JUDICIAL REVIEW.

(a) WITHHOLDING.—

(1) IN GENERAL.—Whenever the Secretary, after reasonable notice and an opportunity for a hearing is provided to the State educational agency involved (and to any local educational agency or State agency affected by any failure described in subparagraph (B)), finds—

(A) that there has been a failure by the State to comply substantially with any provision of this part; or

(B) that there is a failure to comply with any condition of a local educational agency's eligibility or State agency's eligibility under this part,

the Secretary shall, after notifying the State educational agency, withhold any further payments to the State under this part.

(2) LIMITATIONS.—If the Secretary withholds further payments under paragraph (1), the Secretary may determine that such withholding will be limited to programs or projects, or portions thereof, affected by the failure, or that the State educational agency shall not make further payments under this part to specified local educational agencies or State agencies affected by the failure. Until the Secretary is satisfied that there is no longer any failure to comply with the provisions of this part, as specified in subparagraph (A) or (B) of paragraph (1), no further payments shall be made to the State under this part or payments by the State educational agency under this part shall be limited to local educational agencies or State agencies whose actions did not cause or were not involved in the failure, as the case may be. Any State educational agency, local educational agency, or State agency in receipt of a notice pursuant to paragraph (1) shall, by means of a public notice, take such measures as may be necessary to bring the pendency of an action pursuant to this subsection to the attention of the public within the jurisdiction of such agency.

(b) APPEALS OF ELIGIBILITY DETERMINATIONS.—

(1) PETITION.—If any State is dissatisfied with the Secretary's final action with respect to the eligibility of such State under section 612, such State may, within 60 days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings upon which the Secretary's action was based, as provided in section 2112 of title 28, United States Code.

(2) FINDINGS.—The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence. The Secretary on remand of the case may make new or modified findings of fact, may modify the previous action of the Secretary, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall be conclusive if supported by substantial evidence.

(3) Court's Judgment.—Upon the filing of the petition under paragraph (1), the court shall have jurisdiction to affirm the action of the Secretary or to set such action aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

SEC. 617. ADMINISTRATION.

(a) Secretary's Responsibilities.—In carrying out this part, the Secretary shall—

(1) cooperate with, and (directly or through grant or contract) provide the technical assistance necessary to, the State in matters relating to—

(A) the education of children with disabilities; and

(B) carrying out the requirements of this part;

(2) provide short-term training programs and institutes; and

(3) disseminate information about, and otherwise promote, the education of all children with disabilities within the States.

(b) Rules and Regulations.—Not later than January 1, 1977, the Secretary in carrying out the provisions of this part shall issue, amend, and revoke such rules and regulations as may be necessary. No other less formal method of implementing such provisions is authorized.

(c) Confidentiality.—The Secretary shall take appropriate action, in accordance with the provisions of section 444 of the General Education Provisions Act (20 U.S.C. 1232g), to ensure the protection of the confidentiality of any personally identifiable data, information, and records collected or maintained by the Secretary and by State and local educational agencies pursuant to the provisions of this part.

(d) Personnel.—The Secretary is authorized to hire qualified personnel necessary to conduct data collection and evaluation activities authorized by section 618, without regard to the provisions of title 5, United States Code, relating to appointments in the competitive service and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and general schedule pay rates except that no more than 20 such personnel shall be employed at any one time.

(e) Policy Letters and Statements.—The Secretary may not, through policy letters or other statements, establish a rule that is required for compliance with and eligibility under this part without following the requirements of section 553 of title 5, United States Code.

(f) Interpretations by the Department of Education.—

(1) In general.—The Secretary shall, on a quarterly basis, publish in the Federal Register, and widely disseminate to interested entities through various additional forms of communication, a list of correspondence from the Department of Education received by persons during the previous quarter that describes the interpretations of the Department of Education of this part or the regulations implemented pursuant to this part.

(2) Additional information.—For each item of correspondence published in a list under paragraph (1), the Secretary shall identify the topic addressed by the correspondence and

shall include such other summary information as the Secretary determines appropriate.

SEC. 618. EVALUATION AND PROGRAM INFORMATION.

(a) Program Information.—Each State that receives assistance under this part, and the Secretary of the Interior, shall provide data each year to the Secretary—

(1)(A) on—

(i) the number of children with disabilities who are receiving a free appropriate public education;

(ii) the number of children with disabilities who are receiving early intervention services;

(iii) the number of children with disabilities who are participating in regular education;

(iv) the number of children with disabilities who are in separate classes, separate schools or facilities, or public or private residential facilities;

(v) the number of children with disabilities who, for each year of age from 14 through 21, stopped receiving special education and related services because of program completion or for other reasons; and

(vi) the number of children with disabilities who, from birth through age 2, stopped receiving early intervention services because of program completion or for other reasons; and

(B) on the number of infants and toddlers who are at risk of having substantial developmental delays (as described in section 672) and who are receiving early intervention services under part H; and

(2) on any other information as may be required by the Secretary.

(b) Studies and Evaluations, and National Assessments.—

(1) In general.—The Secretary shall assess the progress in the implementation of this Act through the studies, evaluations, and assessments described in paragraphs (2) and (3).

(2) Studies and evaluations.—In carrying out the requirement of paragraph (1), the Secretary shall, directly or through grants, contracts, or cooperative agreements, conduct studies and evaluations necessary to—

(A) assess, through quantitative and qualitative data and reporting modes, the effectiveness of State and local efforts to—

(i) provide a free appropriate public education to children with disabilities; and

(ii) provide early intervention services to infants and toddlers with disabilities and infants and toddlers at risk for developmental delay;

(B) analyze measurable impact, outcomes, and results achieved by the State educational agencies and local educational agencies through the systems change activities of such agencies to reform policies, procedures, and practices designed to improve the educational and transitional services and results for children with disabilities;

(C) analyze the State and local needs for professional development, parent training, and other appropriate activities

regarding disciplinary actions involving children with disabilities; and

(D) assess the educational and transitional services and results for children with disabilities from unserved and underserved populations, including—

(i) data on—

(I) the number of children from unserved and underserved populations who are referred for special education evaluation;

(II) the number of children from unserved and underserved populations who are receiving special education and related services; and

(III) the number of children from unserved and underserved populations who graduated from secondary and postsecondary education programs; and

(ii) the performance of children with disabilities from unserved and underserved populations on State assessments and other performance indicators established for all students.

(3) NATIONAL STUDIES, ASSESSMENTS, AND EVALUATIONS.—The Secretary shall, directly or through grants, contracts, or cooperative agreements, conduct studies, assessments, and evaluations (using nationally representative samples) that shall measure the educational and transitional services and results of children with disabilities under this Act. Such studies, assessments, and evaluations shall include—

(A) the conduct of a 5-year longitudinal study or studies (utilizing both quantitative and qualitative data and reporting modes)—

(i) that examine the educational and transitional services and results for children with disabilities aged 3 through 17, who are receiving special education and related services under this Act, using a national, representative sample of distinct age cohorts and disability categories;

(ii) that identify and reports on the placement of children with disabilities by disability category; and

(iii) that examine the educational results, postsecondary placement, and employment status of individuals with disabilities, aged 18 through 21, who are receiving or have received special education and related services under this Act; and

(B) the annual collection of data (beginning on October 1, 1998 and every fiscal year thereafter) on the number of children with disabilities suspended, expelled, and subject to other disciplinary actions (such as change in placement), including data disaggregated by age, sex, race, socioeconomic status, disability category, and category of behavior subject to disciplinary action.

The Secretary shall ensure that the activities described in clauses (i) through (iii) of subparagraph (A) are not duplicated by any entity selected through a grant, contract, or cooperative agreement under paragraph (2).

(c) Tracking and Reporting Requirements.—

(1) Post-school outcome tracking.—The Secretary shall, directly or through contracts, conduct a study on the post-school outcomes for children with disabilities who have been expelled from school, and shall develop a procedure for State educational agencies to monitor the status of the children, based on categories developed by the Secretary, including the monitoring of the status of such children through followup information regarding the employment status of the children, the return of the children to school, the graduation of the children, high school equivalency examinations taken by the children, and residential incarceration of the children.

(2) Collection and tracking.—Each State educational agency shall bear the costs of collecting and reporting any information requested by the Secretary regarding the students described in paragraph (1) including, information on—

(A) the number and nature of disciplinary actions against children expelled under section 615A; and

(B) post-school outcomes collected under the procedure developed under paragraph (1).

(3) Reports by the Secretary.—The Secretary shall collect the information described in paragraph (2) and shall—

(A) not later than 2 years after the date of enactment of the Individuals with Disabilities Education Act Amendments of 1996, prepare and submit an interim report concerning the information to the Committee on Labor and Human Resources of the Senate and the Committee on Economic and Educational Opportunities of the House of Representatives; and

(B) not later than 4 years after the date of enactment of the Individuals with Disabilities Education Act Amendments of 1996, prepare and submit a final report concerning the information to the Committee on Labor and Human Resources of the Senate and the Committee on Economic and Educational Opportunities of the House of Representatives.

(d) Annual Report.—Not later than 120 days after the expiration of each fiscal year, the Secretary shall prepare and submit to Congress a report that includes—

(1) an analysis and summary of the data reported by the States and the Secretary of the Interior under subsection (a);

(2) the results of activities conducted under subsection (b);

(3) the findings and determinations resulting from reviews of States with respect to the implementation of this Act; and

(4) recommendations with respect to the implementation of this Act to improve the educational and transitional services and results for children with disabilities and their families.

(e) Additional Sources of Information.—The Secretary may collect and use information collected from various sources for reporting to Congress, including the collection and use of State evaluations and available research studies, in carrying out this section.

(f) Reservation for Studies and Evaluations.—Notwithstanding any provision of this Act, the Secretary may reserve, in addition to any funds appropriated under this section, up to one-half of one

percent of the amount appropriated under this part and part H for each fiscal year to carry out the purposes of this section.

(g) Authorization of Appropriations.—For purposes of carrying out this section, there are authorized to be appropriated $4,100,000 for fiscal year 1997 and such sums as may be necessary for succeeding fiscal years.

(h) Applicability of Definitions.—Any term used in this section that is defined in section 602 (as amended by section 102 of the Individuals with Disabilities Education Act Amendments of 1996) shall have the meaning given such term in such section.

SEC. 619. PRESCHOOL GRANTS.

(a) Purpose of Grants.—The Secretary shall make grants to States and the outlying areas to assist in the provision of special education and related services, in accordance with this part—

(1) to children with disabilities aged 3 through 5; and

(2) at the discretion of the State, to 2-year-old children with disabilities who will turn age 3 during the school year.

(b) Eligibility.—A State or outlying area is eligible for a grant under this section if the State or outlying area—

(1) has established its eligibility under section 612; and

(2) makes a free appropriate public education available to all children with disabilities, aged 3 through 5, residing in the jurisdiction of the State or the outlying area.

(c) Allocations.—Of the funds made available under this section, the Secretary shall allocate to each eligible State and each outlying area, the State's or outlying area's pro rata share of the available funds based upon the count of the State on the number of children with disabilities, aged 3 through 5, consistent with section 611(a)(3). The amount of any grant to any State or outlying area under this section for any fiscal year may not exceed $1,500 for each child with a disability in such State or outlying area, aged 3 through 5.

(d) State-Level Activities.—

(1) In general.—A State may retain not more than 25 percent of the amount of the grant that the State receives under this section for administration and other State-level activities in accordance with subsections (e) and (f).

(2) Inapplicability of certain requirements.—A State may use the funds that the State retains under paragraph (1) without regard to—

(A) the prohibition on commingling of funds under section 612(a)(18)(A)(ii); and

(B) the prohibition on supplanting other funds under section 612(a)(18)(A)(iii).

(e) State Administration.—

(1) In general.—Each State and outlying area may use not more than 5 percent of the amount of the grant that the State and outlying area receive under this section for any fiscal year for the purpose of administering this part, including the coordination of activities under this part with, and providing technical assistance to, other programs that provide services to children with disabilities.

(2) Administration of part H.—Funds described in paragraph (1) may also be used for the administration of part H,

if the State educational agency is the lead agency for the State under that part.

(f) OTHER STATE-LEVEL ACTIVITIES.—A State shall use any funds that the State retains under subsection (d) and does not use for administration under subsection (e)—

(1) for support services (including establishing and implementing the mediation process required by section 615(e)), which may benefit children with disabilities younger than age 3 and older than age 5 as long as such services also benefit children with disabilities aged 3 through 5;

(2) for direct services for children eligible for services under this section;

(3) for activities at the State and local levels to meet the performance goals established by the State under section 612(a)(16);

(4) to supplement other funds used to develop and implement a fully integrated and coordinated statewide system that links education, health, social welfare services, support systems, and other community entities, in a manner designed to improve the educational and transitional results for all children and their families (including children with disabilities and their families), but not to exceed 1 percent of the amount received by the State under this section; or

(5) for other activities at the discretion of the State educational agency that are consistent with the purpose of this part.

(g) SUBGRANTS TO LOCAL EDUCATIONAL AGENCIES AND STATE AGENCIES.—

(1) REQUIREMENT TO MAKE SUBGRANTS.—A State that receives a grant under this section for any fiscal year shall distribute at least 75 percent of the grant funds to local educational agencies in the State that have established eligibility under section 613, and to State agencies that received funds for fiscal year 1994 under subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (as such subpart was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994) and that have established their eligibility under section 613.

(2) METHODS OF DISTRIBUTION.—From the amount of funds available to local educational agencies or State agencies in any State under this section, each local educational agency shall be entitled to the pro rata share of the available funds based on the aggregate number of children with disabilities aged 3 through 5 who received special education and related services as determined under section 611.

(h) PART H INAPPLICABILITY.—Part H does not apply to any child with a disability receiving a free appropriate public education, in accordance with this part, with funds received under this section.

(i) OUTLYING AREAS.—The provisions of section 501 of Public Law 95–134 (48 U.S.C. 1469a), permitting the consolidation of grants to outlying areas, shall not apply to funds received by such areas under this section.

(j) DEFINITION OF STATE.—For the purpose of this section, the term "State" means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(k) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary.

SEC. 620. PAYMENTS.

(a) PAYMENTS TO STATES.—The Secretary shall make payments to each State that has demonstrated the eligibility of the State under section 612, in amounts that the Secretary determines under sections 611 and 619.

(b) PAYMENTS TO LOCAL EDUCATIONAL AGENCIES AND STATE AGENCIES.—Any State educational agency receiving payments under this section shall distribute payments to local educational agencies (and to State agencies that received funds for fiscal year 1994 under subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (as such subpart was in effect on the day preceding the date of enactment of the Improving America's Schools Act of 1994)) in the State that the State educational agency has determined are eligible under section 613, in amounts determined under sections 611 and 619.

SEC. 620A. APPLICABILITY OF DEFINITIONS.

The definitions used in section 602 (as in effect on the day before the date of enactment of the Individuals with Disabilities Education Act Amendments of 1996) shall apply to this part, except as provided in section 615A and section 618.

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[PART C—CENTERS AND SERVICES TO MEET SPECIAL NEEDS OF INDIVIDUALS WITH DISABILITIES

[REGIONAL RESOURCE AND FEDERAL CENTERS

[SEC. 621. (a) The Secretary may make grants to, or enter into contracts or cooperative agreements with, institutions of higher education, public agencies, private nonprofit organizations, State educational agencies, or combinations of such agencies or institutions (which combinations may include one or more local educational agencies) within particular regions of the United States, to pay all or part of the cost of the establishment and operation of regional resource centers that focus on special education and related services and early intervention services. Each regional resource center shall provide consultation, technical assistance, and training, as requested, to State educational agencies and through such State educational agencies to local educational agencies and to other appropriate public agencies providing special education and related services and early intervention services. The services provided by a regional resource center shall be consistent with the priority needs identified by the States served by the center. Each regional resource center established or operated under this section shall—

[(1) assist in identifying and solving persistent problems in providing quality special education and related services for children and youth with disabilities and every intervention services to infants and toddlers with disabilities and their families,

[(2) assist in developing, identifying, and replicating successful pograms and practices which will improve special education and related services to children and youth with disabilities and their families and early intervention services to infants and toddlers with disabilities and their families,

[(3) gather and disseminate information to all State educational agencies within the region and coordinate activities with other centers assisted under this subsection and other relevant programs and projects conducted under parts C through G and by the Department of Education,

[(4) assist in the improvement of information dissemination to and training activities for professionals and parents of infants, toddlers, children, and youth with disabilities, and

[(5) provide information to and training for agencies, institutions, and organizations, regarding techniques and approaches for submitting applications for grants, contracts, and cooperative agreements under this part and parts D through G.

[(b) In determining whether to approve an application for a project under subsection (a), the Secretary shall utilize criteria for setting criteria that are consistent with the needs identified by States within the region served by such center, consistent with requirements established by the Secretary under subsection (f), and, to the extent appropriate, consistent with requirements under section 610, and shall consider the need for such a center in the region to be served by the applicant and the capability of the applicant to fulfill the responsibilities under subsection (a).

[(c) [Each regional] *Except as otherwise required by the Secretary, each regional* resource center shall report a summary of materials produced or developed and the summaries reported shall be included in the annual report to Congress required under section 618.

[(d) The Secretary may establish one coordinating technical assistance center focusing on national priorities established by the Secretary to assist the regional resource centers in the delivery of technical assistance, consistent with such national priorities. Such coordinating technical assistance center is authorized to—

[(1) provide information to, and training for, agencies, institutions, and organizations, regarding techniques and approaches for submitting applications for grants, contracts, and cooperative agreements under this parts D through G, and shall make such information available to the regional resource centers on request;

[(2) give priority to providing technical assistance concerning the education of children with disabilities from minority backgrounds;

[(3) exchange information with, and, where appropriate, cooperate with, other centers addressing the needs of children with disabilities from minority backgrounds; and

[(4) provide assistance to State educational agencies, through the regional resource centers, for the training of hearing officers.

[(e) Before using funds made available in any fiscal year to carry out this section for purposes of subsection (d), not less than the amount made available in the previous fiscal year for regional resource centers under subsection (a) shall be made available for such centers and in no case shall more than $500,000 be made available for the center under subsection (d).

[(f)(1) The Secretary shall develop guidelines and criteria for the operation of Regional and Federal Resource Centers. In developing such criteria and guidelines, the Secretary shall establish a panel representing the Office of Special Education Programs staff, State special education directors, representatives of disability advocates, and, when appropriate, consult with the regional resource center directors.

[(2) Such guidelines and criteria shall include—

[(A) a description of how the Federal and Regional Resource Centers Program will be administered by the Secretary;

[(B) a description of the geographic region each Center is expected to serve;

[(C) a description of the role of a Center in terms of expected leadership and dissemination efforts;

[(D) a description of expected relationships with State agencies, research and demonstration centers, and with other entities deemed necessary;

[(E) a description of how a Center will be evaluated; and

[(F) other guidelines and criteria deemed necessary.

[(3) The Secretary shall publish in the Federal Register by July 1, 1991, for review and comment, proposed and (then following such review and comment) final guidelines developed by the panel.

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[SERVICES FOR DEAF-BLIND CHILDREN AND YOUTH

[SEC. 622. (a)(1) The Secretary is authorized to make grants to, or to enter into cooperative agreements or contracts with, public or nonprofit private agencies, institutions, or organizations to assist State educational agencies, local educational agencies, and designated lead agencies under part H to—

[(A) assure deaf-blind infants, toddlers, children and youth provision of special education, early intervention, and related services as well as vocational and transitional services; and

[(B) make available to deaf-blind youth (who are in the process of transitioning into adult services) programs, services, and supports to facilitate such transition, including assistance related to independent living and competitive employment.

[(2) For purposes of this section, the term "deaf-blind", with respect to children and youth, means having auditory and visual impairments, the combination of which creates such severe communication and other developmental and learning needs that they cannot be appropriately educated in special education programs solely for children and youth with hearing impairments, visual impairments, or severe disabilities, without supplementary assistance to address their educational needs due to these dual, concurrent disabilities.

[(3)(A) A grant, cooperative agreement, or contract may be made under paragraph (1)(A) only for programs providing—

[(i) technical assistance to agencies, institutions, or organizations providing educational or early intervention services to deaf-blind infants, toddlers, children, or youth;

[(ii) preservice or inservice training to paraprofessionals, professionals, or related services personnel preparing to serve, or serving, deaf-blind infants, toddlers, children, or youth;

[(iii) replication of successful innovative approaches to providing educational, early intervention, or related services to deaf-blind infants, toddlers, children, and youth;

[(iv) pilot projects that are designed to—

[(I) expand local educational agency capabilities by providing services to deaf-blind children and youth that supplement services already provided to children and youth through State and local resources; and

[(II) encourage eventual assumption of funding responsibility by State and local authorities;

[(v) the development, improvement, or demonstration of new or existing methods, approaches, or techniques that contribute to the adjustment and education of deaf-blind infants, toddlers, children, and youth; or

[(vi) facilitation of parental involvement in the education of their deaf-blind infants, toddlers, children, and youth.

[(B) The programs described in subparagraph (A) may include—

[(i) the diagnosis and educational evaluation of infants, toddlers, children, and youth who are likely to be diagnosed as deaf-blind;

[(ii) programs of adjustment, education, and orientation for deaf-blind infants, toddlers, children, and youth; and

[(iii) consultative, counseling, and training services for the families of deaf-blind infants, toddlers, children, and youth.

[(4) A grant, cooperative agreement, or contract pursuant to paragraph (1)(B) may be made only for programs providing (A) technical assistance to agencies, institutions, and organizations that are preparing deaf-blind adolescents for adult placements, or that are preparing to receive deaf-blind young adults into adult living and work environments, or that serve, or propose to serve, deaf-blind individuals (B) training or inservice training to paraprofessionals or professionals serving, or preparing to serve, such individuals; and (C) assistance in the development or replication of successful innovative approaches to providing rehabilitative, supervised, semisupervised, or independent living programs.

[(5) In carrying out this subsection, the Secretary is authorized to enter into a number of grants or cooperative agreements to establish and support single and multi-State centers for the provision of technical assistance and pilot supplementary services, for the purposes of program development and expansion, for children and youth with deaf-blindness and their families.

[(b) The Secretary is also authorized to enter into a limited number of cooperative agreements or contracts to establish and support regional programs for the provision of technical assistance in the education of deaf-blind children and youth.

[(c)(1) Programs supported under this section shall report annually to the Secretary on (A) the numbers of deaf-blind children and youth served by age, severity, sex, and nature of deaf-blindness; (B) the number of paraprofessionals, professionals, and family members directly served by each activity; (C) the types of services provided and the setting in which the services are provided; and (D) student outcomes, where appropriate.

[(2) The Secretary shall examine the number of deaf-blind children and youth (A) reported under subparagraph (c)(1)(A) and by the States; (B) served by the programs under part B of this Act; and (C) the Deaf-Blind Registry of each State. The Secretary shall revise the count of deaf-blind children and youth to reflect the most accurate count.

[(3) The Secretary shall summarize these data for submission in the annual report required under section 618.

[(d) The Secretary shall make a grant, or enter into a contract or cooperative agreement, for a national clearinghouse for children and youth with deaf-blindness—

[(1) to identify, coordinate, and disseminate information on deaf-blindness, emphasizing information concerning effective practices in working with deaf-blind infants, toddlers, children, and youth;

[(2) to interact with educators, professional groups, and parents to identify areas for programming, materials development, training, and expansion of specific services;

[(3) to maintain a computerized data base on local, regional, and national resources; and

[(4) to respond to information requests for professionals, parents, and members of the community.

[(e) In carrying out this section, the Secretary shall take into consideration the availability and quality of existing services for deaf-blind infants, toddlers, children, and youth in the country, and, to the extent practicable, ensure that all parts of the country have an opportunity to receive assistance under this section.

[(f) the Secretary may make grants to, or enter into contracts or cooperative agreements with organizations or public or nonprofit private agencies, as determined by the Secretary to be appropriate, to address the needs of children and youth with deaf-blindness, for—

[(1) research to identify and meet the full range of special needs of such children and youth; and

[(2) the development and demonstration of new, or improvements in existing methods, approaches, or techniques that would contribute to the adjustment and education of children and youth with deaf-blindness.

[EARLY EDUCATION FOR CHILDREN WITH DISABILITIES

[SEC. 623. (a)(1) The Secretary may arrange by contract, grant, or cooperative agreement with appropriate public agencies and private nonprofit organizations, for the development and operation of experimental, demonstration, and outreach preschool and early intervention programs for children with disabilities, including individuals who are at risk of having substantial developmental delays if early intervention services are not provided, which the Secretary determines show promise of promoting a comprehensive and strengthened approach to the special needs of these children. Such programs shall include activities and services designed to—

[(A) facilitate the intellectual, emotional, physical mental, social, speech or other communication mode, language development, and self-help skills of such children,

[(B) provide family education and include a parent or their representative of such child, as well as encourage the participation of the parents of such children in the development and operation of any such program,

[(C) acquaint the community to be served by any such program with the special needs and potentialities of such children,

[(D) offer training about exemplary models and practices, including interdisciplinary models and practices, to State and local personnel who provide services to children with disabilities from birth through age 8 and to the parents of such children,

[(E) support the adoption of exemplary models and practices in States and local communities, including the involvement of adult role models with disabilities at all levels of the program,

[(F) facilitate and improve the early identification of infants and toddlers with disabilities or those infants and toddlers at risk of having developmental disabilities,

[(G) facilitate the transition of infants with disabilities or infants at risk of having developmental delays, from medical care to early intervention services, and the transition from early intervention services to preschool special education or regular education services (especially where the lead agency for early intervention programs under part H is not the State educational agency),

[(H) promote the use of assistive technology devices and assistive technology services, where appropriate to enhance the development of infants and toddlers with disabilities,

[(I) facilitate and improve outreach to low-income, minority, rural, and other underserved populations eligible for assistance under parts B and H,

[(J) support statewide projects in conjunction with a State's application under part H and a State's plan under part B, to change the delivery and early intervention services to infants and toddlers with disabilities, and to change the delivery of special education and related services to preschool children with disabilities, from segregated to integrated environments, and

[(K) increase the understanding of, and address, the early intervention and preschool needs of children exposed prenatally to maternal substance abuse.

[(2) Programs authorized by paragraph (1) shall be coordinated with similar programs in the schools operated or supported by State or local educational agencies of the community to be served and with similar programs operated by other public agencies in such community.

[(3) As much as is feasible, programs assisted under paragraph (1) shall be geographically dispersed throughout the Nation in urban as well as rural areas.

[(4)(A) Except as provided in subparagraph (B), no arrangement under paragraph (1) shall provide for the payment of more than 90 percent of the total annual costs of development operation, and evaluation of any program. Non-Federal contributions may be in cash or in kind, fairly evaluated, including plant, equipment, and services.

[(B) The Secretary may waive the requirement of subparagraph (A) in the case of an arrangement entered into under paragraph (1) with governing bodies of Indian tribes located on Federal or State reservations and with consortia of such bodies.

[(b) The Secretary shall fund up to 5 grants to States for 3 years for the purpose of establishing an inter-agency, multi-disciplinary, and coordinated statewide system for the identification, tracking, and referral to appropriate services for all categories of children who are biologically and/or environmentally at-risk of having developmental delays. To the extent feasible, such grants shall be geographically dispersed throughout the Nation in urban and rural areas. Each grantee must—

[(1) create a data system within the first year to document the numbers and type of at-risk children in the State and that develops linkages with all appropriate existing child data and tracking systems that assist in providing information;

[(2) coordinate activities with the child find component required under parts B and H of this Act;

[(3) demonstrate the involvement of the lead agency and the State interagency coordinating council under part H as well as the State educational agency under part B;

[(4) coordinate with other relevant prevention activities across appropriate service agencies, organizations, councils, and commissions;

[(5) define an appropriate service delivery system based on children with various types of at-risk factors;

[(6) document the need for additional services as well as barriers; and

[(7) disseminate findings and information in the manner prescribed in section 610(g).

[(c) The Secretary shall arrange by contract, grant, or cooperative agreement with appropriate public agencies and private nonprofit organizations for the establishment of a technical assistance development system to assist entities operating experimental, demonstration, and outreach programs and to assist State agencies to expand and improve services provided to children with disabilities. This technical assistance development system shall provide assistance to parents of and advocates for infants, toddlers, and children with disabilities, as well as direct service and administrative personnel involved with such children, Information from the system should be aggressively disseminated through established information networks and other mechanisms to ensure both an impact and benefit at the community level. The Secretary shall ensure that the technical assistance provided under this subsection includes assistance to part H State agencies on procedures for use by primary referral sources in referring a child to the appropriate agency within the system for evaluation, assessment, or service.

[(d) The Secretary shall arrange by contract, grant, or cooperative agreement with appropriate public agencies and private nonprofit organizations for the establishment of early childhood research institutes to carry on sustained research to generate and disseminate new information on preschool and early intervention for children with disabilities and their families. Such institutes shall disseminate this information in the manner prescribed in section 610(g).

[(e) The Secretary may make grants to, or enter into contracts or cooperative agreements under this section with, such organizations or institutions, as are determined by the Secretary to be appropriate, for research to identify and meet the full range of special needs of children with disabilities and for training of personnel for programs specifically designed for children with disabilities, including programs to integrate children with disabilities into regular preschool programs.

[(f) At least one year before the termination of a grant, contract, or cooperative agreement made or entered into under subsections (c) and (d), the Secretary shall publish in the Federal Register a notice of intent to accept applications for such a grant, contract, or cooperative agreement contingent on the appropriation of sufficient funds by Congress.

[(g) For purposes of this section the term “children with disabilities includes children from birth through eight years of age, including infants and toddlers with disabilities.

[(h) The Secretary may make grants to, or enter into contracts or cooperative agreements with, institutions of higher education and nonprofit private organizations to synthesize the knowledge developed under this section and organize, integrate,and present such knowledge so it ban be incorporated and imparted to parents, professionals, and others providing or preparing to provide preschool or early intervention services and to persons designing preschool or early intervention programs.

[PROGRAMS FOR CHILDREN WITH SEVERE DISABILITIES

[SEC. 624. (a) The Secretary may make grants to, or enter into contracts or cooperative agreements with, appropriate public agencies and nonprofit organizations to address the special education, related services, early intervention, and integration needs of infants, toddlers, children,and youth with severe disabilities through—

> [(1) research to identify and meet the full range of special education, related services, and early intervention needs of such children and youth with disabilities, including their need for transportation to and from school,
>
> [(2) the development or demonstration of new, or improvements in existing, methods, approaches, or techniques which would contribute to the adjustment and education of such children and youth with disabilities,
>
> [(3) training of special and regular education, related services, and early intervention personnel for programs specifically designed for such infants, toddlers, children and youth, including training of regular teachers, instructors, and administrators (the goal of which is to serve infants, toddlers, children,

and youth with disabilities) that includes integrated settings for educating such children along side their nondisabled peers,

[(4) dissemination of materials and information about practices found effective in working with such children and youth by utilizing existing networks as prescribed in section 610(g) and

[(5) statewide projects, in conjunction with the State's plan under part B, to improve the quality of special education and related services for children and youth with severe disabilities, and to change the delivery of those services from segregated to integrated environments.

[(b) The Secretary is authorized to make grants to, or enter into contracts or cooperative agreements with, public or private nonprofit private agencies, institutions, or organizations for the development and operation of extended school year demonstration programs for infants, toddlers, children, and youth with severe disabilities.

[(c) In making grants and entering into contracts and cooperative agreements under subsection (a), the Secretary shall ensure that the activities funded under such grants, contracts, or cooperative agreements will be coordinated with similar activities funded from grants and contracts under other sections of this Act.

[(d) To the extent feasible, programs authorized by subsection (a) shall be geographically dispersed throughout the Nation in urban and rural areas.

[(e) In awarding such grants and contracts under this section, the Secretary shall include a priority on programs that increase the likelihood that these children and youth will be educated with their nondisabled peers.

[POSTSECONDARY EDUCATION

[SEC. 625. (a)(1) The Secretary may take grants to, or enter into contracts with, State educational agencies, institutions of higher education, junior and community colleges, vocational and technical institutions, and other appropriate nonprofit educational agencies for the development, operation, and dissemination of specially designed model programs of postsecondary, vocational technical, continuing, or adult education for individuals with disabilities. Such model programs may include joint projects that coordinate with special education and transition services.

[(2) In making grants or contracts on a competitive basis under paragraph (1), the Secretary shall give priority consideration to 4 regional centers for the deaf and to model programs for individuals with disabling conditions other than deafness—

[(A) for developing and adapting programs of postsecondary, vocational, technical, continuing, or adult education to meet the special needs of individuals with disabilities, and

[(B) for programs that coordinate, facilitate, and encourage education of individuals with disabilities with their non-disabled peers; and

[(C) for outreach activities that include the provision of technical assistance to strengthen efforts in the development, operation, and design of model programs that are adapted to the special needs of individuals with disabilities.

[(3) Persons operating programs for persons with disabilities under a grant or contract under paragraph (1) must coordinate their efforts with and disseminate information about their activities to the clearinghouse on postsecondary programs established under section 633(b).

[(4) At least one year before the termination of a grant or contract with any of the 4 regional centers for the deaf, the Secretary shall publish in the Federal Register a notice of intent to accept applications for such grant or contract, contingent on the appropriation of sufficient funds by Congress.

[(5) To the extent feasible, programs authorized by paragraph (1) shall be geographically dispersed throughout the Nation in urban and rural areas.

[(6) Of the sums made available for programs under paragraph (1), not less than $4,000,000 shall first be available for the 4 regional centers for the deaf. The Secretary shall continue to provide assistance through September 30, 1994, to the current grantees operating the four regional centers for the deaf under subsection (a) of this section. The Secretary shall continue to provide such assistance through September 30, 1995, unless the authorization of appropriations for parts C–G of the Act is extended by September 30, 1994.]

[(b) For purposes of subsection (a), the term "individuals with disabilities" means individuals—

[(1) with mental retardation, hearing impairments including deafness, speech or language impairments, visual impairments including blindness, serious emotional disturbance, orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities; and

[(2) who, by reason thereof, need special education and related services.]

* * * * * * *

PART C—PROMOTING SYSTEMS CHANGE TO IMPROVE EDUCATIONAL AND TRANSITIONAL SERVICES AND RESULTS FOR CHILDREN WITH DISABILITIES

SEC. 621. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) States are responding with some success to multiple pressures to improve educational and transitional services and results for children with disabilities in response to growing demands imposed by ever-changing factors, such as demographics, social policies, and labor and economic markets.

(2) In order for States to address such demands and to facilitate lasting systems change that is of benefit to all students, including children with disabilities, States must involve local educational agencies, individuals with disabilities and their families, and other interested individuals and organizations in planning and implementation activities that affect education.

(3) Targeted Federal financial resources are needed to support planning, needs assessment, implementation, and evalua-

tion of better ways to address the needs of children with disabilities into the next century.

(4) State educational agencies, in partnership with local educational agencies and other individuals and organizations, are in the best position to identify and design ways to meet emerging and expanding demands to improve education for children with disabilities and to address their special needs.

(5) Research, demonstration, and practice over the past 20 years in special education and related disciplines have built a foundation of knowledge on which State and local systems change activities can now be based.

(6) Such research, demonstration, and practice in special education and related disciplines have demonstrated that an effective educational system now and in the future must—

(A) maintain high academic standards and clear performance goals for children with disabilities, consistent with the standards and expectations for all students in the educational system, and provide for appropriate and effective strategies and methods to ensure that students who are children with disabilities have maximum opportunities to achieve such standards and goals;

(B) create a system that fully addresses the needs of all students, including students who are children with disabilities, by linking and coordinating the requirements of parts B and H with other systemic reform initiatives;

(C) clearly define, in measurable terms, the school and postschool results that children with disabilities will achieve through their participation in general and special education programs;

(D) promote service integration, and the coordination of State and local education, social, health, and mental health supports, and other interagency supports, in addressing the full range of student needs, particularly the needs of students who are children with disabilities and have significant and multiple disabilities;

(E) ensure that children with disabilities are provided assistance and support in making transitions as described in clauses (i) through (iii) of section 614(a)(2)(B);

(F) promote comprehensive programs of professional development to ensure that the persons responsible for the education or such a transition of children with disabilities possess the skills and knowledge necessary to address the educational and related needs of the children;

(G) create school-based disciplinary strategies that will be used to reduce or eliminate the need to use suspension and expulsion as disciplinary options for children with disabilities;

(H) establish placement-neutral funding formulas and cost-effective strategies for serving children with disabilities in special education and general education; and

(I) involve individuals with disabilities and parents of children with disabilities in planning, implementing, and evaluating educational system innovations and reforms.

(b) PURPOSE.—The purpose of this part is to assist and provide incentives to State educational agencies, working in partnership with local educational agencies, and other interested individuals, agencies, and organizations, described in section 623(a), to carry out systems change activities that will improve policies, procedures, and practices, and training, and the use of personnel, parents, and school-age peers of children with disabilities that will contribute to improved early intervention, educational and transitional services and results for children with disabilities in demonstrable and measurable ways.

SEC. 622. GRANTS TO STATE EDUCATIONAL AGENCIES.

(a) GRANT AWARD.—

(1) IN GENERAL.—The Secretary shall award grants, on a competitive basis, to State educational agencies, working in partnership with local educational agencies and other individuals and organizations described in section 623(a), to support systems change activities that benefit, in demonstrable and measurable ways, children with disabilities.

(2) ACTIVITIES BENEFITING MULTIPLE STATES.—To pursue systems change activities that benefit children with disabilities and their families in more than 1 State, recipients of such grants may collaborate in carrying out projects under this part through such activities as joint arrangements with 1 or more institutions of higher education, sharing of project staff, and joint use of consultants.

(b) TYPES OF GRANTS.—

(1) IN GENERAL.—In awarding grants under subsection (a), the Secretary may award either a planning grant or an implementation grant to a State educational agency applying for funds under this part that forms a partnership described in section 623(a) that applies for funds under this part.

(2) PLANNING GRANTS.—

(A) APPLICATION.—An applicant may apply under section 623(b) for a planning grant to develop systems change activities.

(B) DURATION.—A planning grant referred to in paragraph (1) shall be awarded for a period of 1 year.

(C) RENEWAL OF 1-YEAR GRANTS.—A grant that has been awarded for a 1-year period in accordance with subparagraph (B) may be renewed for an additional 1-year period.

(3) IMPLEMENTATION GRANTS.—

(A) APPLICATION.—An applicant may apply under section 623(c) for an implementation grant to carry out systems change activities.

(B) DURATION.—An implementation grant referred to in paragraph (1) shall be awarded for a period of not to exceed 5 years.

(c) AMOUNT OF AWARDS.—

(1) CONSIDERATIONS.—In determining the amount of any award under this part for a State educational agency, the Secretary may consider such factors as the Secretary finds appropriate, which may include the size of the school-age population of the State in which the State educational agency is located.

(2) LIMITATION AMOUNT.—Notwithstanding paragraph (1) and except as provided in subsection (d)(2) and section 624—

(A) the annual amount of each planning grant referred to in subsection (b)(1) shall not exceed—

(i) $100,000 for any State educational agency in a State; or

(ii) $10,000 for any State educational agency in an outlying area; and

(B) the annual amount of each implementation grant referred to in subsection (b)(1) shall be not less than—

(i) $450,000 for any State educational agency in a State; or

(ii) $40,000 for any State educational agency in an outlying area.

(d) LIMITATIONS AND EXCEPTIONS.—

(1) LIMITATION.—Except as provided in paragraph (2), no State educational agency may receive more than 1 award under this part for any fiscal year.

(2) EXCEPTIONS.—In addition to applying for an individual implementation grant, State educational agencies may submit a joint application under section 623 for an implementation grant referred to in subsection (b)(1) with other State educational agencies to address systemic problems on a regional or national basis. Any State educational agency that is involved in the joint submission of an application under this paragraph shall, prior to making an application under section 623, form within the State in which the State educational agency is located a partnership as described in section 623(a). In determining the amount of any award for such a grant, the Secretary may set aside the monetary limitations described in subsection (c).

SEC. 623. APPLICATION.

(a) IN GENERAL.—In order to be considered for a planning grant or an implementation grant under this part, a State educational agency shall establish a partnership among members (referred to in this part as the 'partnership') consisting of local educational agencies, and other individuals and organizations involved in, or concerned with, the education of children with disabilities, including—

(1) parents of children with disabilities;

(2) individuals with disabilities;

(3) teachers and related services providers;

(4) representatives of institutions of higher education;

(5) representatives of other State agencies involved in the financing or delivery of special education and related services to children with disabilities and early intervention services to infants and toddlers with disabilities;

(6) representatives of vocational, community, postsecondary, and business organizations concerned with the provision of transitional services to children with disabilities; and

(7) other individuals as deemed appropriate by the State educational agency.

(b) PLANNING GRANTS.—In order to be considered for a planning grant under this part, a State educational agency, in partnership with the local educational agencies, and other individuals, and or-

ganizations described in subsection (a), shall prepare and submit an application to the Secretary that—

(1) describes the planning activities for which assistance is sought;

(2) describes proposed changes in practices, procedures, policies, training, or uses of personnel;

(3) describes a partnership agreement that—

(A) specifies the nature and extent of the partnership, and the respective roles of each member of the partnership; and

(B) shall be in effect for the period of the grant; and

(4) includes such other information and assurances as the Secretary may reasonably require.

(c) Implementation Grants.—In order to be considered for an implementation grant under this part, a State educational agency, in partnership with local educational agencies, and other individuals and organizations described in subsection (a), shall prepare and submit an application to the Secretary that—

(1) describes the critical aspects of practices, procedures, policies, and organizational structures that will be changed in order to improve educational and transitional results for children with disabilities, based on syntheses and analysis of available information, such as—

(A) information on the performance of children with disabilities on State assessments and other performance indicators established for all children, such as dropout rates and graduation rates;

(B) information on State and local needs for professional development for personnel to serve children with disabilities; and

(C) information provided to the State educational agency by the Secretary;

(2) identifies the goals and objectives for the systems change activities to be carried out under the grant and how the goals and objectives relate to the goals established by the State under section 612(a)(16) (as amended by section 202 of the Individuals with Disabilities Education Act Amendments of 1996);

(3) describes how grant funds will be used in undertaking the systems change activities, and the amount and nature of funds from other sources that will be committed to the systems change activities;

(4) describes the performance indicators that will be adopted or used to measure progress made toward the goals of the systems change activities and toward improved educational and transitional results for children with disabilities;

(5) describes the approach that will be taken, on an annual basis, to disseminate information on the progress measured under paragraph (4) to interested members of the State partnership and to the Secretary;

(6) describes a partnership agreement specified in subsection (b)(3); and

(7) includes such other information and assurances as the Secretary may reasonably require.

(d) Adequate Progress.—The Secretary may terminate a grant to a State educational agency under this part, or require amend-

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ments to an approved application of a State educational agency, if the Secretary determines that the State educational agency is not making adequate progress toward the goals of the systems change activities of the State educational agency under this part.

SEC. 624. INCENTIVES.

Notwithstanding section 622(c)(2), the Secretary may provide additional funds for systems change activities, if the Secretary approved an application under this part relating to the activities and—

(1) the application, in addition to meeting the minimal application requirements, includes evidence of a significant and substantial level of collaboration among agencies, organizations, and individuals who have an interest in the quality of educational services and opportunities for children with disabilities;

(2) the activities described in the application are connected with prereferral programs and other programs designed to prevent the educational failure of children (particularly children who are members of unserved, underserved, or inappropriately identified populations and who are from minority backgrounds and from geographic areas with significant need) so that the children experience a high level of success in their educational experience; and

(3) the application demonstrates, in addition to meeting the minimal application requirements, an ongoing effort to assess and address the needs of children with disabilities and ensure the full participation of such children in statewide or districtwide general education systems change activities.

SEC. 625. AUTHORIZATION OF APPROPRIATIONS.

For the purpose of carrying out this part, there are authorized to be appropriated $30,000,000 for fiscal year 1998 and such sums as may be necessary for each of fiscal years 1999 through 2002.

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SECONDARY EDUCATION AND TRANSITIONAL SERVICES FOR YOUTH WITH DISABITIES

SEC. 626. (a) * * *

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(D) In the annual report required under [section 618(g)] *section 618* the Secretary shall include a report of the activities and results associated with the agreement under subparagraph (A)

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SEC. 628. (a) There are authorized to be appropriated to carry out section 621 $8,525,000 for fiscal year 1991, $9,300,000 for fiscal year 1992, $10,140,000 for fiscal year 1993, and $11,052,000 for [fiscal year 1994] *each of fiscal years 1994 through 1997.*

(b) There are authorized to be appropriated to carry out section 622 $21,900,000 for fiscal year 1991, $24,100,000 for fiscal year 1992, $26,500,000 for fiscal year 1993, and $29,200,000 for [fiscal year 1994] *each of fiscal years 1994 through 1997.*

(c) There are authorized to be appropriated to carry out section 623 $31,400,000 for fiscal year 1991, $34,235,000 for fiscal year 1992, $37,325,000 for fiscal year 1993, and $40,705,000 for [fiscal year 1994] *each of fiscal years 1994 through 1997.*

(d) There are authorized to be appropriated to carry out section 624 $9,500,000 for fiscal year 1991, $10,500,000 for fiscal year 1992, $11,600,000 for fiscal year 1993, and $12,700,000 for [fiscal year 1994] *each of fiscal years 1994 through 1997.*

(e) There are authorized to be appropriated to carry out section 625 $9,470,000 for fiscal year 1991, $10,230,000 for fiscal year 1992, $11,050,000 for fiscal year 1993, and $11,930,000 for [fiscal year 1994] *each of fiscal years 1994 through 1997.*

(f) There are authorized to be appropriated to carry out section 626 (except subsection (e)) $9,800,000 for fiscal year 1991, $10,800,000 for fiscal year 1992, $11,900,000 for fiscal year 1993, and $13,050,000 for [fiscal year 1994] *each of fiscal years 1994 through 1997.*

(g) There are authorized to be appropriated to carry out section 626(e) $27,500,000 for fiscal year 1991, $30,250,000 for fiscal year 1992, $33,275,000 for fiscal year 1993, and $36,302,000 for [fiscal year 1994] *each of fiscal years 1994 through 1997.*

(h) There are authorized to be appropriated to carry out section 627 $6,500,000 for fiscal year 1991, $8,000,000 for fiscal year 1992, $9,500,000 for fiscal year 1993, and $11,500,000 for [fiscal year 1994] *each of fiscal years 1994 through 1997.*

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[PART D—TRAINING PERSONNEL FOR THE EDUCATION OF INDIVIDUALS WITH DISABILITIES

[GRANTS FOR PERSONNEL TRAINING

[SEC. 631. (a)(1) The Secretary may make grants, which may include scholarships with necessary stipends and allowances, to institutions of higher education (including university affiliated programs and satellite centers participating in programs under part D of the Developmental Disabilities Assistance and Bill of Rights Act) and other appropriate nonprofit agencies to assist them in training personnel for careers in special education, related services, and early intervention, including—

[(A) special education teaching, including speech-language pathology and audiology, and adapted physical education and instructional and assistive technology services,

[(B) related services to children and youth with disabilities in educational settings, and other settings,

[(C) special education and other careers in preschool and early intervention services for infants and toddlers with disabilities,

[(D) special education leadership, including supervision and administration (at the advanced graduates, doctoral, and post-doctoral levels), special education research, and special education personnel preparation (at the doctoral and post-doctoral levels), [(E) training of special education personnel and other personnel providing special services and pre-school and early intervention services for children with disabilities, and

[(F) training in the use, applications, and benefits of assistive technology devices and assistive technology services (as defined in paragraphs (2) and (3) of section 3 of the Technology-Relate Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2202(2) and (3))).

[(2)(A) The Secretary shall base the award of grants under paragraph (1) on information relating to the present and projected need for special education, related services, early intervention, and other personnel to be trained based on identified State, regional, or national shortages, including the need for personnel in the provision of special education to children of limited English proficiency, and the capacity of the institution or agency to train qualified personnel, and other information considered appropriate by the Secretary.

[(B) The Secretary shall ensure that grants are only made under paragraph (1) to applicant agencies and institutions that meet the State and professionally recognized standards for the preparation of special education and related services personnel unless the grant is for the purpose of assisting the applicant agency or institution to meet such standards, and that include in their applications a detailed description of strategies that will be utilized to recruit and train members of minority groups and persons with disabilities.

[(3) Grants under paragraph (1) may be used by institutions to assist in covering the cost of courses of training or study for such personnel and for establishing and maintaining fellowships or traineeship with such stipends and allowances as may be determined by the Secretary. Such institutions shall give priority consideration in the selection of qualified recipients of fellowships and traineeships to individuals from disadvantaged backgrounds, including minorities and individuals with disabilities who are underrepresented in the teaching profession or in the specializations in which they are being trained.

[(4) The Secretary in carrying out paragraph (1) may reserve a sum not to exceed 5 percent of the amount available for paragraph (1) in each Fiscal year for contracts to prepare personnel in areas where shortages exist when a response to that need has not been adequately addressed by the grant process.

[(5) In making grants under subsection (a)(1), the Secretary may determine that a portion of training supported through such grants shall be conducted on an interdisciplinary basis, and shall be designed to assist special educators in properly coordinating service provision with related services personnel. To the extent feasible, training programs funded under subsection (a)(1)(B) and (a)(1)(E) shall require practice to demonstrate the delivery of related services in an array of regular and special education and community settings.

[(6) Nothing in this subsection shall be construed to prevent regular education or special education personnel from benefitting or participating in training activities conducted under this subsection on a preservice or inservice basis.

[(7) The Secretary, in carrying out paragraph (1), shall make grants to Historically Black Colleges and Universities, and other institutions of higher education whose minority student enrollment is at least 25 percent.

[(8)(A) In making grants under grant paragraph (1), the Secretary may make grants through a separate competition to institutions of higher education, in partnership with local educational agencies and center schools for students who are deaf, to carry out not less than 4 regional model demonstration training programs on deafness and secondary disabilities.

[(B) Such programs shall provide preservice and inservice training to teachers and school administrators, and leadership personnel, in the education of students who are deaf and to related services personnel.

[(9) In making grants under paragraph (1), the Secretary may provide for the training or retraining of regular education teachers who are involved in providing instruction to individuals who are deaf, but who are not certified as teachers of such individuals, to meet the communications needs of such individuals.

[(b)(1) The Secretary may make grants to institutions of higher education, and other appropriate nonprofit agencies or organizations for the establishment or continuation of educational interpreter training programs to train personnel to effectively meet the various communication needs of elementary and secondary students who are deaf or deaf-blind. To the extent feasible, grants shall be geographically dispersed throughout the Nation in urban and rural areas.

[(2) The Secretary may make a grant under paragraph (1) only if the applicant for the grant provides an assurance that all interpreters receiving training under the grant will be provided training designed to develop skills necessary for facilitating effective communication for students who are deaf or deaf-blind.

[(3) In making grants under paragraph (1), the Secretary may provide for the training or retraining (including short-term and inservice training) of regular education teachers who are involved in providing instruction to individuals who are deaf, but who are not certified as teachers of such individuals, and other personnel who work with such individuals, on the role of educational interpreters.

[(c) The Secretary may make grants to institutions of higher education, State agencies, and other appropriate nonprofit agencies and organizations to develop and demonstrate effective ways for preservice training programs to prepare regular educators to work with children and youth with disabilities and their families; for training teachers to work in community and school settings with school students with disabilities and their families; for inservice and preservice training of personnel to work with minority infants, toddlers, children, and youth with disabilities and their families; for preservice and inservice training of special education and related services personnel in use of assistive and instructional technology to benefit infants, toddlers, children, and youth with disabilities; and for the recruitment and retention of special education, related services, and early intervention personnel. But preservice and inservice training shall include a component that addresses the coordination among all service providers, including regular educators.

[(d)(1) the Secretary shall fund up to 5 grants to States or entities to support the formation of consortia or partnerships of public and private entities for the purpose of providing opportunities for career advancement and/or competency-based training, including but not limited to, certificate or degree grating programs in special education, related services, and early intervention for current workers at public and private agencies that provide services to infants, toddlers, children, and youth with disabilities. Recipients shall meet the requirements of section 610(g) for the dissemination of information. The purposes for which such a grant may be expended include, but are not limited to, the following:

[(A) Establishing a program with colleges and universities to develop creative new programs and coursework options and/or to expand existing programs in the field of special education, related services, or early intervention. Funds may be used to provide release time for faculty and staff for curriculum development, instructional costs, and modest start-up and other program development costs.

[(B) Establishing a career development mentoring program using faculty and professional staff members of participating agencies as role models, career sponsors, and academic advisors for experienced State, city, county, and voluntary sector workers who have demonstrated a commitment to working in the above fields and who are enrolled in higher education institution programs relating to these fields.

[(C) Supporting a wide range of programmatic and research activities aimed at increasing opportunities for career advancement and competency-based training in the above fields.

[(D) Identifying existing public and private agency and labor union personnel policies and benefit programs that may facilitate the ability of workers to take advantage of higher education opportunities such as leave time, tuition reimbursement, etc.

[(2) To the extent feasible, projects authorized under paragraph (1) shall be geographically dispersed throughout the Nation in urban and rural areas.

[(3) The Secretary shall award, for the purpose of providing technical assistance to States or entities receiving grants under paragraph (1), a cooperative agreement through a separate competition to an entity that has successfully demonstrated the capacity and expertise in the education, training, and retention of workers to serve children and youth with disabilities through the use of consortia or partnerships established for the purpose of retaining the existing workforce and providing opportunities for career enhancements.

[(4) The Secretary may conduct an evaluation of projects funded under this subsection.

[(5) During the period in which an entity is receiving financial assistance under paragraph (1) of (3), the entity may not receive financial assistance under the other paragraph.

[(e)(1) The Secretary may make grants through a separate competition to private nonprofit organizations for the purpose of providing training and information to parents of infants, toddlers, children, and youth with disabilities and persons who work with parents to enable such individuals to participate more effectively with professionals in meeting the educational needs of children with disabilities. Such grants shall be designed to meet the unique training and information needs of parents of infants, toddlers, children, and youth with disabilities living in the area to be served by the grant, particularly those who are members of groups that have been traditionally underrepresented.

[(2) In order to receive a grant under paragraph (1) a private nonprofit organization shall—

[(A) be governed by a board of directors of which a majority of the members are parents of infants, toddlers, children, and youth with disabilities, particularly minority parents, and that includes members who are professionals, especially minority professionals, in the field of special education, early intervention, and related services, and individuals with disabilities, or, if the nonprofit private organization does not have such a board, such organization shall have a membership that represents the interests of individuals with disabilities, and shall establish a special governing committee of which a majority of the members are parents of infants, toddlers, children, and youth with disabilities, particularly parents of minority children, and which includes members who are professionals, especially minority professionals, in the field of special education, early intervention, and related services, to operate the training and information program under paragraph (1), and parent and professional membership of these boards or special governing committees shall be broadly representative of minority and other individuals and groups having an interest in special education, early intervention, and related services;

[(B) serve the parents of infants, toddlers, children, and youth with the full range of disabling conditions under such grant program; and

[(C) demonstrate the capacity and expertise to conduct effectively the training and information activities for which a grant may be made under paragraph (1), and, for purposes of paragraph (1), network with clearinghouses, including those established under section 633 and other organizations and agencies, and network with other established national, State, and local parent groups representing the full range of parents of infants, toddlers, children, and youth with disabilities, especially parents of minority children.

Nothing in subparagraph (A) shall be construed to authorize or permit the denial to any person of the due process of law required by the United States Constitution.

[(3) The board of directors or special governing committee of a private nonprofit organization receiving a grant under paragraph (1) shall meet at least once in each calendar quarter to review the parent training and information activities for which the grant is made, and each such committee shall advise the governing board directly of its views and recommendations. Whenever a private nonprofit organization requests the renewal of a grant under paragraph (1) for a fiscal year, the board of directors or the special governing committee shall submit to the Secretary a written review of the parent training and information program conducted by that private nonprofit organization during the preceding fiscal year.

[(4) The Secretary shall ensure that grants under paragraph (1) will—

[(A) be distributed geographically to the greatest extent possible throughout all the States and give priority to grants which involve unserved areas,

[(B) be targeted to parents of children with disabilities in both urban and rural areas or on a State or regional basis,

[(C) serve parents of minority children with disabilities (including parents served pursuant to paragraph (10)) representative to the proportion of the minority population in the areas being served by requiring that applicants for the grants identify with specificity the special efforts that will be undertaken to involve such parents, including efforts to work with community-based and cultural organizations and the specification of supplementary aids, services, and supports that will be made available, and by specifying budgetary items earmarked to accomplish this subparagraph, and

[(D) be funded at a sufficient size, scope, and quality to ensure that the program is adequate to serve the parents in the area.

[(5) Parent training and information programs assisted under paragraph (1) shall assist parents to—

[(A) better understand the nature and needs of the disabling conditions of children,

[(B) provide followup support for educational programs of children with disabilities,

[(C) communicate more effectively with special and regular educators, administrators, related services personnel, and other relevant professionals,

[(D) participate in educational decisionmaking processes, including the development of the individualized education program for a child with a disability,

[(E) obtain appropriate information about the range of options, programs, services, and resources available at the national, State, and local levels to assist infants, toddlers, children, and youth with disabilities and their families, and

[(F) understand the provisions for the education of infants, toddlers, children, and youth with disabilities under this Act.

[(6) Parent training and information programs may, at a grant recipient's discretion, include State or local educational personnel where such participation will further an objective of the program assisted by the grant.

[(7) Each private nonprofit organization a program receiving a grant under paragraph (1) shall consult and network with appropriate national, State, regional, and local agencies and organizations, such as protection and advocacy agencies, that serve or assist infants, toddlers, children, and youth with disabilities and their families and are located in the jurisdictions served by the program.

[(8) The Secretary shall provide technical assistance, by grant or contract, for establishing, developing, and coordinating parent training and information programs.

[(9) After the establishment in each State of a parent training and information center, the Secretary shall provide for the establishment of 3 experimental centers to serve large numbers of parents of children with disabilities located in high density areas that do not have such centers and 2 such centers to serve large numbers of parents of children with disabilities located in rural areas.

[(10)(A) In the case of a grant under paragraph (1) to a private nonprofit organization for fiscal year 1993 or 1994, the organization, in expending the amounts described in subparagraph (B), shall give priority to providing services under this subsection to parents of children with disabilities aged 0–5.

[(B) With respect to a grant under paragraph (1) to a private nonprofit organization for fiscal year 1993 or 1994, the amounts described in this subparagraph are any amounts provided in the grant in excess of the amount of any grant under such paragraph provided to the organization for fiscal year 1992.

[(11) Effective for fiscal year 1991 and every year thereafter, the Secretary shall obtain data concerning programs and centers assisted under this subsection on—

[(A) the number of parents provided information and training by disability category of their children.

[(B) the types and modes of information or training provided.

[(C) strategies used to reach and serve parents of minority infants, toddlers, children, and youth with disabilities.

[(D) the number of parents served as a result of activities described under subparagraph (C),

[(E) activities to network with other information clearinghouses and parent groups as required in subsection (c)(2)C),

[(F) the number of agencies and organizations consulted with at the national, State, regional, and local levels, and

[(G) the number of parents served under this subsection who are parents of children with disabilities aged 0–5.]

The Secretary shall include a summary of this information in the annual report to Congress as required in [section 618(g)] *section 618.*

[GRANTS TO STATE EDUCATIONAL AGENCIES AND INSTITUTIONS FOR TRAINEESHIPS

[SEC. 632 (a) The Secretary shall make a grant of sufficient size and scope to each State educational agency for the purposes described in subsection (c) and, in any State in which the State educational agency does not apply for such a grant, to an institution of higher education within such State for such purposes.

[(b) The Secretary may also make a limited number of grants to State educational agencies on a competitive basis for the purposes described in subsection (c). In any fiscal year, the Secretary may not expend for purposes of this subsection an amount that exceeds 10 percent of the amount expended for purposes of this section in the preceding fiscal year.

[(c) Grants made under this section shall be for the purpose of assisting States in establishing and maintaining preservice and inservice programs to prepare special and regular education, related services and early intervention personnel to meet the needs of infants, toddlers, children, and youth with disabilities or supervisors of such persons, consistent with the personnel needs identified in the State's comprehensive system of personnel development under section 613 and under section 676(b)(8), and to assist the State in developing and maintaining such systems and conducting personnel recruitment and retention activities.

[(d) The Secretary is authorized to provide directly or by grant, contract, or cooperative agreement, technical assistance to State educational agencies on matters pertaining to the effective implementation of section 613(a)(3).

[CLEARINGHOUSES

[SEC. 633. (a) The Secretary is authorized to make grants to, or enter into contracts or cooperative agreements with, public agencies or private nonprofit organizations or institutions for the establishment of three national clearinghouses: on children and youth with disabilities; on postsecondary education for individuals with disabilities; and on careers in special education to—

[(1) collect, develop, and disseminate information,

[(2) provide technical assistance,

[(3) conduct coordinated outreach activities,

[(4) provide for the coordination and networking with other relevant national, State, and local organizations and information and referral resources,

[(5) respond to individuals and organizations seeking information, and

[(6) provide for the synthesis of information for its effective utilization by parents, professionals, individuals with disabilities, and other interested parties.

[(b) The national clearinghouse for children and youth with disabilities shall:

[(1) Collect and disseminate information (including the development of materials) on characteristics of infants, toddlers, children, and youth with disabilities and on programs, legislation, and services relating to their education under this Act and other Federal laws.

[(2) Participate in programs and services related to disability issues for providing outreach, technical assistance, collection and dissemination of information; and promoting networking of individuals with appropriate national, State, and local agencies and organizations.

[(3) Establish a coordinated network and conduct outreach activities with relevant Federal, State, and local organizations and other sources for promoting public awareness of disability issues and the availability of information, programs, and services.

[(4) Collect, disseminate, and develop information on current and future national, Federal, regional, and State needs for providing information to parents, professionals, individuals with disabilities, and other interested parties relating to the education and related services of individuals with disabilities.

[(5) Provide technical assistance to national, Federal, regional, State and local agencies and organizations seeking to establish information and referral services for individuals with disabilities and their families.

[(6) In carrying out the activities in this subsection, the clearinghouse will include strategies to disseminate information to underrepresented groups such as those with limited English proficiency.

[(c) The national clearinghouse on postsecondary education for individuals with disabilities shall:

[(1) Collect and disseminate information nationally on characteristics of individuals entering and participating in education and training programs after high school; legislation affecting such individuals and such programs; policies, procedures, and support services, as well as adaptations, and other resources available or recommended to facilitate the education of individuals with disabilities; available programs and services that include, or can be adapted to include, individuals with disabilities; and sources of financial aid for the education and training of individuals with disabilities.

[(2) Identify areas of need for additional information.

[(3) Develop new materials (in both print and nonprint form), especially by synthesizing information from a variety of fields affecting disability issues and the education, rehabilitation, and retraining of individuals with disabilities.

[(4) Develop a coordinated network of professionals, related organizations and associations, mass media, other clearinghouses, and governmental agencies at the Federal, regional, State, and local level for the purposes of disseminating information and promoting awareness of issues relevant to the education of individuals with disabilities after high school and referring individuals who request information to local resources.

[(5) Respond to requests from individuals with disabilities, their parents, and professionals who work with them, for information that will enable them to make appropriate decisions about postsecondary education and training.

[(d) The national clearinghouse designed to encourage students to seek careers and professional personnel to seek employment in the various fields relating to the education of children and youth with disabilities shall;

[(1) Collect and disseminate information on current and future national, regional, and State needs for special education and related services personnel.

[(2) Disseminate information to high school counselors and others concerning current career opportunities in special education, location of programs, and various forms of financial assistance (such as scholarships, stipends, and allowance).

[(3) Identify training programs available around the country.

[(4) Establish a network among local and State educational agencies and institutions of higher education concerning the supply of graduates and available openings.

[(5) Provide technical assistance to institutions seeking to meet State and professionally recognized standards.

[(e)(1) In awarding grants, contracts, and cooperative agreements under this section, the Secretary shall give priority consideration to any applicant with demonstrated, proven effectiveness (at the national level) in performing the functions established in this section; and with the ability to conduct such projects, communicate with intended consumers of information, and maintain the necessary communication with national, regional, State, and local agencies and organizations.

[(2) In awarding grants, contracts, and cooperative agreements under this section, the Secretary shall give priority consideration to any applicant with demonstrated, proven effectiveness (at the national level) in providing informational services to minorities and minority organizations.

[(f)(1) Beginning in fiscal year 1991, and for each year thereafter, the Secretary shall obtain information on each project assisted under this section, including—

[(A) the number of individuals served by disability category, as appropriate, including parents, professionals, students, and individuals with disabilities;

[(B) a description of responses utilized;

[(C) a listing of new products developed and disseminated; and

[(D) a description of strategies and activities utilized for outreach to urban and rural areas with populations of minorities and underrepresented groups.

[(2) A summary of the data required by this subsection shall be included in the annual report to Congress required under section 618.

REPORTS TO THE SECRETARY

[SEC. 634. (a) Not more than sixty days after the day of any fiscal year, each recipient of a grant or contract under this part during such fiscal year shall prepare and submit a report to the Secretary. Each such report shall be in such form and detail as the Secretary determines to be appropriate, and shall include—

[(1) the number of individuals trained under the grant or contract, by category of training and level of training;

[(2) the number of individuals trained under the grant or contract receiving degrees and certification, by category and level of training; and

[(3) information described in section 631(d)(11) and section 633(f)(1), as applicable.

[(b) A summary of the data required by this section shall be included in the annual report of the Secretary under section 618 of this Act.]

PART D—IMPROVING EARLY INTERVENTION, EDUCATIONAL, AND TRANSITIONAL SERVICES AND RESULTS FOR CHILDREN WITH DISABILITIES THROUGH COORDINATED RESEARCH AND PERSONNEL PREPARATION

SEC. 631. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) The Federal Government has an ongoing obligation to support programs, projects, and activities that contribute to positive results for children with disabilities, enabling the children—

(A) to meet their early intervention, educational, and transitional goals and, to the maximum extent possible, educational standards that have been established for all children; and

(B) to acquire the skills that will empower the children with disabilities to lead productive and independent adult lives.

(2)(A) As a result of more than 20 years of Federal support for research, demonstration projects, and personnel preparation, there is an important knowledge base for improving results for children with disabilities.

(B) Such knowledge should be used by States and local educational agencies to design and implement state-of-the-art educational systems that consider the needs of, and include, children with disabilities, especially in environments in which the children can learn along with their peers and achieve results measured by the same standards as the results of their peers.

(3)(A) Continued Federal support is essential for the development and maintenance of a coordinated and high-quality program of research, demonstration projects, dissemination of information, and personnel preparation.

(B) Such support—

(i) enables State educational agencies and local educational agencies to improve their educational systems and results for children with disabilities;

(ii) enables State and local agencies to improve early intervention services and results for infants and toddlers with disabilities and their families; and

(iii) enhances the opportunities for general and special education personnel, related services personnel, parents, and paraprofessionals to participate in preservice and inservice training, to collaborate, and to improve results for children with disabilities and their families.

(4) The Federal Government plays a critical role in facilitating the availability of an adequate number of highly qualified personnel—

(A) to serve effectively the over 5,000,000 children with disabilities;

(B) to assume leadership positions in administrative and direct service capacities related to teacher training and research concerning the provision of early intervention services, special education, and related services; and

(C) to work with children with low-incidence disabilities and their families.

(5) The Federal Government performs the role described in paragraph (4)—

(A) by supporting models of personnel development that reflect successful practice, including strategies for recruiting, preparing, and retaining personnel;

(B) by promoting the coordination and integration of—

(i) personnel development activities for teachers of children with disabilities; and

(ii) other personnel development activities supported under Federal law, including this part;

(C) by supporting the development and dissemination of information about teaching standards; and

(D) by promoting the coordination and integration of personnel development activities through linkage with systems change activities within States and nationally.

(b) PURPOSE.—The purpose of this part is to provide Federal funding for coordinated research, demonstration projects, outreach, and personnel preparation activities that—

(1) are described in section 633 or 634;

(2) are linked with, and positively affect, systems change outcomes; and

(3) improve early intervention, educational, and transitional results for children with disabilities.

SEC. 632. DEFINITION.

As used in this part:

(1) DEVELOPMENTAL DELAY.—The term "developmental delay" has the meaning given such term by a State under section 676(b)(1).

(2) EARLY INTERVENTION SERVICES.—The term "early intervention services" has the meaning given the term in section 672.

SEC. 633. RESEARCH AND INNOVATION TO IMPROVE SERVICES AND RESULTS FOR CHILDREN WITH DISABILITIES.

(a) IN GENERAL.—The Secretary may competitively make grants to, or enter into contracts or cooperative agreements with, eligible entities to produce and advance the use of knowledge to—

(1)(A) improve services provided under this Act, including the practices of professionals and others involved in providing such services to children with disabilities; and

(B) improve early intervention, educational, and transitional services and results, for children with disabilities;

(2) address the special needs of infants and toddlers with disabilities, including such infants and toddlers who are at risk of having substantial developmental delays if early intervention services are not provided;

(3) address the specific problems of overidentification and underidentification of children with disabilities to the same extent as other problems facing children with disabilities;

(4) prevent children with emotional and behavioral problems from developing emotional disturbances that require the provision of special education and related services; and

(5) improve secondary and postsecondary education and educational results for children with disabilities.

(b) NEW KNOWLEDGE PRODUCTION; AUTHORIZED ACTIVITIES.—In carrying out this section, the Secretary may support any activities that are consistent with the objectives described in subsection (a), including activities that—

(1) expand understanding of the relationships between learning characteristics of children with disabilities and the diverse ethnic, cultural, linguistic, social, and economic backgrounds of children with disabilities and their families;

(2) develop or identify innovative, effective, and efficient curricula designs, instructional approaches, and strategies, and de-

velop or identify positive academic and social learning opportunities, that—

(A) enable children with disabilities to make effective transitions described in section 643(d)(2)(E) or transitions between educational settings; and

(B) improve educational and transitional results for children with disabilities at all levels of the educational system in which the activities are carried out and, in particular, that improve the progress of the children, as measured by performance expectations within the general education curriculum involved;

(3) advance the design of assessment tools and procedures that will accurately and efficiently determine the special instructional, learning, and behavioral needs of children with disabilities, especially within the context of general education;

(4) study and promote improved alignment and compatibility of general and special education reforms concerned with curricular and instructional reform, evaluation and accountability of such reforms, and administrative procedures;

(5) advance the design, development, and integration of technology, assistive technology devices, media, and materials, to improve early intervention, educational, and transitional services and results, for children with disabilities; and

(6) improve designs, processes, and results, of personnel preparation for personnel who provide services to children with disabilities through the acquisition of information on, and implementation of, research-based practices.

(c) INTEGRATION OF RESEARCH AND PRACTICE; AUTHORIZED ACTIVITIES.—In carrying out this section, the Secretary may support any activities that are consistent with the objectives described in subsection (a), including activities that—

(1) demonstrate and apply research-based findings to facilitate systemic changes in policy, procedure, practice, and the training and use of personnel, related to the provision of services to children with disabilities;

(2) promote and demonstrate the coordination of early intervention and educational services for children with disabilities with services provided by health, rehabilitation, and social service agencies;

(3) identify solutions that overcome systemic barriers to the effective and efficient delivery of early intervention, educational, and transitional services to children with disabilities;

(4) enable professionals, parents of children with disabilities, and other persons to learn about and implement the findings of research, and successful practices developed in model demonstration projects, relating to the provision of services to children with disabilities; and

(5) conduct outreach, and disseminate information, relating to successful approaches to overcoming systemic barriers to the effective and efficient delivery of early intervention, educational, and transitional services to personnel who provide services to children with disabilities.

(d) IMPROVING THE USE OF PROFESSIONAL KNOWLEDGE; AUTHORIZED ACTIVITIES.—In carrying out this section, the Secretary may

support any activities that are consistent with the objectives described in subsection (a), including activities that—

(1) synthesize professional knowledge bases that utilize rigorous methodologies and that relate to the provision of services to children with disabilities;

(2) analyze such professional knowledge bases to advance an understanding of the relationships, and the effectiveness of practices, relating to the provision of services to children with disabilities; and

(3) present such professional knowledge bases in a clear and meaningful manner to affected persons at all levels of the service systems that serve children with disabilities and their families.

(e) APPLICATIONS.—Any eligible entity that wishes to receive a grant, or enter into a contract or cooperative agreement, under this section shall submit an application to the Secretary at such time, in such a manner, and containing such information as the Secretary may require.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $63,000,000 for fiscal year 1998, and such sums as may be necessary for each of fiscal years 1999 through 2002.

SEC. 634. PERSONNEL PREPARATION TO IMPROVE SERVICES AND RESULTS FOR CHILDREN WITH DISABILITIES.

(a) IN GENERAL.—

(1) SUPPORT.—The Secretary may competitively make grants to, or enter into contracts or cooperative agreements with, eligible entities and consortia of eligible entities, to help address State-identified needs for qualified personnel and to ensure that the personnel have the skills and knowledge reflecting successful practices determined through research and practice that are needed to serve children with disabilities.

(2) PROJECTS.—In carrying out this section, the Secretary may support—

(A) projects that address the need for personnel to serve children with high-incidence disabilities or children with low-incidence disabilities;

(B) projects that address the need for leadership personnel;

(C) special projects that have broad applicability in addressing the personnel needs described in paragraph (1); and

(D) projects that improve the skills of personnel who serve children with disabilities who engage in or are likely to engage in behavior subject to disciplinary action.

(b) HIGH-INCIDENCE DISABILITIES; AUTHORIZED ACTIVITIES.—In carrying out this section, the Secretary may support any activities for children with high-incidence disabilities that are consistent with the objectives described in subsection (a), including activities that—

(1) provide teachers, and related services personnel, from various disciplines with interdisciplinary training and training regarding innovative instructional methods for children with disabilities, especially methods that meet the diverse needs of individual children with disabilities and enable the children to be

successful, as measured by performance expectations within the general education curriculum involved;

(2) prepare personnel in the use of strategies, techniques, methods, and practices that meet the needs, for early intervention, educational, and transitional services, of children with disabilities who are members of unserved, underserved, or inappropriately identified populations;

(3) develop career-ladder opportunities for paraprofessionals to receive training as special education teachers and related services personnel, including interdisciplinary training to enable the teachers and personnel to improve early intervention, educational, and transitional results for children with disabilities;

(4) enhance the ability of trainees, teachers, and others to acquire and use strategies, including behavior management plans, to address the conduct of children with disabilities that impedes learning by such children and learning by other students in the classroom involved;

(5) recruit and retain new, highly qualified teachers and related services personnel, especially from groups that are unserved and underserved populations in the teaching profession and from individuals from rural or urban settings, to provide services to children with disabilities;

(6) enhance the preparation of individuals who are teachers, early intervention services personnel, related services personnel, or paraprofessionals, by providing such individuals with interdisciplinary training to develop the collaborative skills needed to appropriately teach children with disabilities, particularly in accordance with a general education curriculum; and

(7) support universities, and institutions of higher education, with minority enrollments of at least 25 percent for the purpose of preparing personnel to work with children with disabilities who are members of unserved, underserved, or inappropriately identified populations.

(c) LEADERSHIP PREPARATION; AUTHORIZED ACTIVITIES.—In carrying out this section the Secretary may support any leadership preparation activities that are consistent with the objectives described in subsection (a), including activities that—

(1) prepare personnel at the advanced graduate, doctoral, and postdoctoral levels of training to administer, enhance, or provide services for children with disabilities, with emphasis on preparation of personnel who are involved with, or will be involved with, efforts to address the needs of children with disabilities who are members of unserved, underserved, or inappropriately identified populations, children with low-incidence disabilities, and children from rural or urban areas;

(2) provide interdisciplinary training for personnel from various disciplines, including teacher preparation faculty, administrators, researchers, supervisors, and other persons, affecting the early intervention, educational, and transitional services of children with disabilities;

(3) prepare professionals at the doctoral and postdoctoral levels at institutions of higher education that are working toward

integrating professional development of general education, special education, and other disciplines; and

(4) prepare professionals at the doctoral and postdoctoral levels at institutions of higher education that are successfully recruiting and preparing—

(A) individuals with disabilities; and

(B) individuals from groups that are underrepresented in education leadership positions.

(d) Low-Incidence Disabilities; Authorized Activities.—In carrying out this section, the Secretary may support any activities for children with low-incidence disabilities that are consistent with the objectives described in subsection (a), including—

(1) preparing persons who—

(A) have prior training in educational and other related service fields; and

(B) are studying to obtain certificates or licensure that will enable the persons to assist children with disabilities to achieve the objectives set out in their individualized education programs described in section 614 or to assist infants and toddlers with disabilities to achieve the outcomes described in their individualized family service plans described in section 677;

(2) providing personnel from various disciplines with interdisciplinary training that will contribute to improvement in early intervention, educational, and transitional results for children with disabilities;

(3) preparing personnel in the innovative uses and application of technology to enhance through early intervention, educational, and transitional services, learning by children with disabilities;

(4) preparing personnel to provide early intervention services or special education services to children with disabilities, including preparation through the provision of scholarships with necessary stipends and allowances; and

(5) ensuring that all entities and consortia who receive assistance under this section to prepare personnel to provide services to visually impaired or blind children, will prepare the personnel to teach and use braille in the provision of services to such children.

(e) Projects of National Significance; Authorized Activities.—In carrying out this section, the Secretary may support any activities that are consistent with the objectives described in subsection (a), including activities that—

(1) develop and demonstrate effective and efficient practices for preparing personnel to provide services to children with disabilities, including practices that address needs identified through systems change activities funded under part C;

(2) demonstrate the application of significant knowledge derived from research and other sources in the development of programs to prepare personnel to provide services to children with disabilities;

(3) demonstrate models for the preparation of special education and general education personnel, to enable the personnel—

(A) to acquire the collaboration skills necessary to assist children with disabilities; and

(B) to achieve results that meet challenging standards of performance expectations, particularly performance expectations within the general education curriculum involved;

(4) demonstrate models that—

(A) provide interdisciplinary training to individuals within collaborative teams of special education and general education personnel, related services personnel, and family members of children with disabilities; and

(B) enhance the educational experience of children with disabilities;

(5) demonstrate models that reduce shortages of teachers, and personnel from other relevant disciplines, who serve children with disabilities through reciprocity arrangements, between States, that are related to licensure and certification;

(6) develop, evaluate, and disseminate model teaching standards for persons working with children with disabilities; and

(7) promote the transferability, across State and local jurisdictions, of licensure and certification of teachers and administrators working with such children.

(f) APPLICATIONS.—

(1) IN GENERAL.—Any eligible entity or consortium that wishes to receive a grant, or enter into a contract or cooperative agreement, under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(2) IDENTIFIED STATE NEEDS.—Any such application shall include information demonstrating to the satisfaction of the Secretary that the activities described in the application will address needs identified by the State the applicant proposes to serve.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $81,000,000 to carry out this section for fiscal year 1998, and such sums as may be necessary for each of fiscal years 1999 through 2002.

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SEC. 635(a)(1) There are authorized to be appropriated to carry out this part (other than sections 631(a)(7), [631(d)] *631(e),* and 633) $94,725,000 for fiscal year 1991, $103,255,000 for fiscal year 1992, $113,580,000 for fiscal year 1993, and $123,760,000 for fiscal year [1994] *each of fiscal years 1994 through 1997.*

(2) There are authorized to be appropriated to carry out section 631(a)(7) $19,250,000 for fiscal year 1991, $21,175,000 for fiscal year 1992, $23,292,500 for fiscal year 1993, and $25,621,750 for fiscal year [1994] *each of fiscal years 1994 through 1997.*

(3) There are authorized to be appropriated to carry out section [631(d)] *631(e)* $11,000,000 for fiscal year 1991, $15,100,000 for fiscal year 1992, $16,300,000 for fiscal year 1993, and $17,600,000 for fiscal year [1994] *each of fiscal years 1994 through 1997.*

(4) There are authorized to be appropriated to carry out section 633 $2,900,000 for fiscal year 1991, $2,465,000 for fiscal year 1992,

$2,710,000 for fiscal year 1993, and $2,960,000 for fiscal year [1994] *each of fiscal years 1994 through 1997.*

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[PART E—RESEARCH IN THE EDUCATION OF HANDICAPPED INDIVIDUALS

[RESEARCH AND RELATED ACTIVITIES

[SEC. 641. (a) The Secretary may make grants to, or enter into contracts or cooperative agreements with, State and local educational agencies, institutions of higher education, other public agencies and nonprofit private organizations for the purpose of advancing and improving the knowledge base and improving the practice of professionals, parents, and others providing early intervention, special education, and related services, including professionals who work with children and youth with disabilities in regular education environments, to provide such children effective instruction and enable them to successfully learn. The activities supported under this section shall support innovation, development, exchange, and use of such advancements in knowledge and practice designed to contribute to the improvement of instruction and learning of infants, toddlers, children, and youth with disabilities. In carrying out this section, the Secretary may support a wide range of research and related activities designed to—

[(1) advance knowledge regarding the provision of instruction and other interventions to infants, toddlers, children, and youth with disabilities including—

[(A) the organization, synthesis, and interpretation of current knowledge and the identification of knowledge gaps;

[(B) the identification of knowledge and skill competencies needed by personnel providing special education, related services, and early intervention services;

[(C) the improvement of knowledge regarding the developmental and learning characteristics of infants, toddlers, children, and youth with disabilities in order to improve the design and effectiveness of interventions and instruction;

[(D) the evaluation of approaches and interventions;

[(E) the development of instructional strategies, techniques, and activities;

[(F) the improvement of curricula and instructional tools such as textbooks, media, materials, and technology;

[(G) the development of assessment techniques, instruments (including tests, inventories, and scales), and strategies for measurement of progress and the identification, location, and evaluation of infants, toddlers, children, and youth with disabilities for the purpose of determining eligibility, program planning, and placement for special education, related services, and early intervention services. Particular attention should be given to the development of alternative assessment procedures and processes for minority individuals and those with limited English proficiency;

[(H) the testing of research findings in practice settings to determine the application, usability, effectiveness, and generalizability of such research findings;

[(I) the improvement of knowledge regarding families, minorities, limited English proficiency, and disabling conditions; and

[(J) the identification of environmental, organizational, resource, and other conditions necessary for effective professional practice; and

[(2) advance the use of knowledge by personnel providing special education, related services, and early intervention services including—

[(A) the improvement of knowledge regarding how such individuals learn new knowledge and skills, and strategies for effectively facilitating such learning in preservice, inservice, and continuing education;

[(B) the organization, integration, and presentation of knowledge so that such knowledge can be incorporated and imparted in personnel preparation, continuing education programs, and other relevant training and communication vehicles; and

[(C) the expansion and improvement of networks that exchange knowledge and practice information.

[(b) In carrying out subsection (a), the Secretary shall consider the special education, related services, or early intervention and research experience of applicants.

[(c) The Secretary shall publish proposed priorities under this part in the Federal Register not later than 12 months preceding the fiscal year for which they are being announced, and shall allow a period of 60 days for public comments and suggestions. The Secretary shall, after analyzing and considering the public comments, publish final priorities in the Federal Register not later than 90 days after the close of the comment period.

[(d) The Secretary shall provide an index (including the title of each project and the name and address of the funded organization) of all projects conducted under this part in the prior fiscal year in the annual report described under section 618.

[(e) The Secretary shall—

[(1) coordinate the priorities established under subsection (b) with research priorities established by the National Institute for Disability and Rehabilitation Research and other appropriate agencies conducting research pertaining to the education of individuals with disabilities; and

[(2) provide information concerning priorities established under subsection (b) to the National Council on Disability and to the Bureau of Indian Affairs Advisory Committee for Exceptional Children.

[(f)(1) The Secretary shall make grants or enter into contracts or cooperative agreements for the establishment of a center or centers designed to organize, synthesize, and disseminate current knowledge relating to children with attention deficit disorder with respect to the following:

[(A) Assessment techniques, instruments, and strategies used for identification, location, evaluation and for measurement of progress.

[(B) Knowledge and skill competencies needed by professionals providing special and regular education and related services.

[(C) Environmental, organizational, resource, and other conditions necessary for effective professional practice.

[(D) Developmental and learning characteristics.

[(E) Instructional strategies, techniques, and activities.

[(F) Curricula and instructional tools such as textbooks, media, materials, and technology.

[(G) Strategies, techniques, and activities related to involvement of families.

[(2) In awarding grants, contracts, and cooperative agreements under paragraph (1), the Secretary shall give priority consideration to applicants with—

[(A) demonstrated knowledge concerning the disorder;

[(B) proven effectiveness in performing the functions established in this subsection; and

[(C) the ability to—

[(i) conduct such projects;

[(ii) communicate with intended consumers of information; and

[(iii) maintain the necessary communication with national, regional, State, and local agencies.

[(g)(1) The Secretary shall make grants, or enter into contracts or cooperative agreements, for the establishment of model demonstration programs, of which some will be school-based models, that provide the services of an ombudsman to assist in resolving problems that are barriers to appropriate educational, related services, or other services for children and youth with disabilities.

[(2) Programs under paragraph (1) shall provide or identify personnel to assist children and youth with disabilities, their parents or guardians, special and regular education teachers, State and local education administrators, and related services personnel to resolve problems in a timely manner through dispute mediation and other methods, notwithstanding due process procedures, in order to further the delivery of appropriate education and related services. Participation in this program does not preclude or delay due process under part B of this Act.

[(3) Ombudsman services for programs under paragraph (1) shall be provided by social workers, parent advocates, psychologists, and persons with similar qualifications designated by the Secretary.

[(h)(1) The Secretary may make grants to institutions of higher education, in partnership with other appropriate agencies and organizations such as local educational agencies and center schools for students who are deaf, to—

[(A) conduct research in the unique needs of children and youth, including minority children and youth, with disabilities;

[(B) develop and evaluate specialized instructional methods, materials, curricula, and technologies for use with such children and youth; and

[(C) develop and evaluate assessment techniques, instruments, and strategies used to identify, evaluate, and measure the progress of such children and youth.

[(2) Each grantee under this subsection shall provide for the meaningful involvement in its project of parents and family members and adult role models.

[RESEARCH AND DEMONSTRATION PROJECTS IN PHYSICAL EDUCATION AND RECREATION FOR CHILDREN WITH DISABILITIES

[SEC. 642. The Secretary is authorized to make grants to States, State or local educational agencies, institutions of higher education, and other public or nonprofit private educational or research agencies and organizations, and to make contracts with States, State or local educational agencies, institutions of higher education, and other public or private educational or research agencies and organizations, for research and related purposes relating to physical education or recreation for children with disabilities, including therapeutic recreation, and to conduct research, surveys, or demonstrations relating to physical education or recreation for children with disabilities, including therapeutic recreation.

[AUTHORIZATION OF APPROPRIATIONS

[SEC. 643. For purposes of carrying out this part, there are authorized to be appropriated $21,100,000 for fiscal year 1990, $24,650,000 for fiscal year 1991, $27,400,000 for fiscal year 1992, $30,200,000 for fiscal year 1993, and $33,200,000 for [fiscal year 1994] *each of fiscal years 1994 through 1997*.

[PART F—INSTRUCTIONAL MEDIA FOR INDIVIDUALS WITH DISABILITIES

[PURPOSES

[SEC. 651. The purposes of this part are to promote—

[(1) the general welfare of deaf and hard of hearing individuals by—

[(A) bringing to such individuals understanding and appreciation of those films and television programs that play such an important part in the general and cultural advancement of hearing individuals;

[(B) providing through these films and television programs enriched educational and cultural experiences through which deaf and hard of hearing individuals can be brought into better touch with the realities of their environment; and

[(C) providing a wholesome and rewarding experience that deaf and hard of hearing individuals may share together; and

[(2) the educational advancement of individuals with disabilities by—

[(A) carrying on research in the use of educational media for individuals with disabilities;

[(B) producing and distributing educational media for the use of individuals with disabilities, their parents, their actual or potential employers, and other individuals directly involved in work for the advancement of individuals with disabilities;

[(C) training individuals in the use of educational media for the instruction of individuals with disabilities; and

[(D) utilizing educational media to help eliminate illiteracy among individuals with disabilities;

[(3) the general welfare of visually impaired individuals by—

[(A) bringing to such individuals an understanding and appreciation of textbooks, films, television programs, video material, and other educational publications and materials that play such an important part in the general and cultural advancement of visually unimpaired individuals; and

[(B) ensuring access to television programming and other video materials.

[CAPTIONED FILMS, TELEVISION, DESCRIPTIVE VIDEO, AND EDUCATIONAL MEDIA FOR HANDICAPPED INDIVIDUALS

[SEC. 652. (a) The Secretary shall establish a loan service of captioned films, descriptive video and educational media for the purpose of making such materials available in accordance with regulations, in the United States for nonprofit purposes to individuals with disabilities, parents of individuals with disabilities, and other individuals directly involved in activities for the advancement of individuals with disabilities, including for the purpose of addressing problems of illiteracy among individuals with disabilities.

[(b) The Secretary is authorized to—

[(1) acquire films (or rights thereto) and other educational media by purchase, lease, or gift;

[(2) acquire by lease or purchase equipment necessary for the administration of this part;

[(3) provide, by grant or contract, for the captioning for deaf and hard of hearing individuals and video description for the visually impaired, of films, television programs, and video materials;

[(4) provide, by grant or contract, for the distribution of captioned and video-described films, video materials, and other educational media and equipment through State schools for handicapped individuals, public libraries, and such other agencies or entities as the Secretary may deem appropriate to serve as local or regional centers for such distribution;

[(5) provide, by grant or contract, for the conduct of research in the use of educational and training films and other educational media for individuals with disabilities, for the production and distribution of educational and training films and other educational media for individuals with disabilities and the training of individuals in the use of such films and media, including the payment to those individuals of such stipends (including allowances for travel and other expenses of such individuals and their dependents) as the Secretary may determine, which shall be consistent with prevailing practices under comparable federally supported programs;

[(6) utilize the facilities and services of other governmental agencies;

[(7) accept gifts, contributions, and voluntary and uncompensated services of individuals and organizations; and

[(8) provide by grant or contract for educational media and materials for deaf and hard of hearing individuals.

[(c) The Secretary may make grants to or enter into contracts or cooperative agreements with the National Theatre of the Deaf, Inc. and other appropriate non-profit organizations for the purpose of providing cultural experiences to—

[(1) enrich the lives of deaf and hard of hearing children and adults,

[(2) increase public awareness and understanding of deafness and of the artistic and intellectual achievements of deaf and hard of hearing individuals, and

[(3) promote the integration of hearing and deaf and hard of hearing individuals through shared cultural, educational, and social experiences.

[(d)(1) The Secretary is authorized to make a grant or enter into a contract for the purpose of providing current, free textbooks and other educational publications and materials to blind and other print-handicapped students in elementary, secondary, postsecondary, and graduate schools and other institutions of higher education through the medium of transcribed tapes and cassettes.

[(2) For the purpose of this subsection, the term "print-handicapped" refers to any individual who is blind or severely visually impaired, or who, by reason of a physical or perceptual disability, is unable to read printed material unassisted.

[AUTHORIZATION OF APPROPRIATIONS

[SEC. 653. For the purpose of carrying out section 652 there are authorized to be appropriated $20,010,000 for fiscal year 1991, $22,010,000 for fiscal year 1992 $24,200,000 for fiscal year 1993, and $26,600,000 for [fiscal year 1994] *each of fiscal years 1994 through 1997.*]

[PART G—TECHNOLOGY, EDUCATIONAL MEDIA, AND MATERIALS FOR INDIVIDUALS WITH DISABILITIES

[FINANCIAL ASSISTANCE

[SEC. 661. (a) The Secretary may make grants or enter into contracts or cooperative agreements with institutions of higher education, State and local educational agencies, or other appropriate agencies and organizations for the purpose of advancing the use of new technology, media, and materials in the education of students with disabilities and the provision of related services and early intervention services to infants and toddlers with disabilities. In carrying out this section, the Secretary may fund projects or centers for the purposes of—

[(1) determining how technology, assistive technology, media, and materials are being used in the education of individuals with disabilities and how they can be used most effectively, efficiently, and appropriately,

[(2) designing and adapting technology, assistive technology, media, and materials to improve the education of students with disabilities, [(3) assisting the public and private sectors in the development and marketing of technology, assistive technology, media, and materials for the education of individuals with disabilities

[(4) disseminating information on the availability and use of technology, assistive technology, media, and materials for the education of individuals with disabilities, where appropriate, to entities described in section 610(g),

[(5) increasing access to and use of assistive technology devices and assistive technology services in the education of infants, toddlers, children, and youth with disabilities, and other activities authorized under the Technology-Related Assistance for Individuals With Disabilities Act of 1988, as such Act relates to the education of students with disabilities, and

[(6) examining how these purposes can address the problem of illiteracy among individuals with disabilities.

[(b)(1) With respect to new technology, media, and materials utilized with funds under this part to improve the education of students with disabilities, the Secretary shall make efforts to ensure that such instructional materials are closed captioned.

[(2) The Secretary may not award a grant, contract, or cooperative agreement under paragraphs (1) through (4) of subsection (a) unless the applicant for such assistance agrees that activities carried out with the assistance will be coordinated as appropriate, with the State entity receiving funds under title I of the Technology-Related Assistance for Individuals with Disabilities Act of 1988.

[AUTHORIZATION OF APPROPRIATIONS

[SEC. 662. For the purpose of carrying out this part, there are authorized to be appropriated $11,900,000 for fiscal year 1991, $12,860,000 for fiscal year 1992, $13,890,000 for fiscal year 1993, and $15,000,000 for [fiscal year 1994] *each of fiscal years 1994 through 1997.*]

PART E—IMPROVING EARLY INTERVENTION, EDUCATIONAL, AND TRANSITIONAL SERVICES AND RESULTS FOR CHILDREN WITH DISABILITIES THROUGH COORDINATED TECHNICAL ASSISTANCE, SUPPORT, AND DISSEMINATION OF INFORMATION

SEC. 641. FINDINGS AND PURPOSES.

(a) IN GENERAL.—Congress finds that—

(1) national technical assistance, support, and dissemination activities are necessary to ensure that the provisions of parts B and H are fully implemented and achieve early intervention, educational, and transitional results for children with disabilities and their families;

(2) parents, teachers, administrators, and related services personnel need technical assistance and information in a timely, coordinated, and accessible manner in order to improve early intervention, educational, and transitional services and results,

at the State and local levels for children with disabilities and their families;

(3) parent training and information activities have taken on increased importance in efforts to assist parents of a child with a disability in dealing with the multiple pressures of rearing such a child and are of particular importance in—

(A)(i) ensuring the involvement of such parents in planning and decisionmaking with respect to early intervention, educational, and transitional services; and

(ii) achieving early intervention, educational, and transitional results for children with disabilities;

(B) providing such parents information on their rights and protections under this Act to ensure improved early intervention, educational, and transitional results for children with disabilities;

(C) assisting such parents in the development of skills to participate effectively in the education and development of their children and in the transitions described in section 643(d)(2)(E); and

(D) supporting the roles of such parents as participants within partnerships seeking to improve early intervention, educational, and transitional services and results, for children with disabilities and their families;

(4) providers of parent training and information activities need to ensure that such parents who have limited access to services and supports, due to economic, cultural, or linguistic barriers, are provided with access to appropriate parent training and information activities;

(5) parents of children with disabilities need information that helps the parents to understand the rights and responsibilities of their children under part B;

(6) the provision of coordinated technical assistance and dissemination of information to State and local agencies, institutions of higher education, and other providers of services to children with disabilities are essential in—

(A) supporting the process of achieving systems change outcomes;

(B) supporting actions in areas of priority specific to the improvement of early intervention, educational, and transitional results for children with disabilities;

(C) conveying information and assistance that are—

(i) based on current research (as of the date the information and assistance are conveyed);

(ii) accessible and meaningful for use in supporting systems change activities of State and local partnerships; and

(iii) linked directly to improving early intervention, educational, and transitional services and results, for children with disabilities and their families; and

(D) organizing systems and information networks for such information, based on modern technology related to—

(i) storing and gaining access to information; and

(ii) distributing information in a systematic manner to parents, students, professionals, and policymakers;

(7) Federal support for carrying out technology research, technology development, and educational media services and activities has resulted in major innovations that have significantly improved early intervention, educational, and transitional services and results, for children with disabilities and their families; and

(8) such Federal support is needed to—

(A) stimulate the development of software, interactive learning tools, and devices to address early intervention, educational, and transitional results for children with disabilities who have certain disabilities;

(B) make information available on technology research, technology development, and educational media services and activities to individuals involved in the provision of early intervention, educational, and transitional services to children with disabilities;

(C) promote the integration of technology into curricula to improve early intervention, educational, and transitional results for children with disabilities;

(D) provide incentives for the development of technology and media devices and tools that are not readily found or available because of the small size of potential markets;

(E) make resources available to pay for such devices and tools and educational media services and activities;

(F) promote the training of personnel to—

(i) provide such devices, tools, services, and activities in a competent manner; and

(ii) assist children with disabilities and their families in using such devices, tools, services, and activities; and

(G) coordinate the provision of such devices, tools, services, and activities—

(i) among State human services programs; and

(ii) between such programs and private agencies.

(b) PURPOSES.—The purposes of this part are to provide funding to ensure that—

(1) children with disabilities, and their parents, receive training and information on their rights and protections under this Act, in order to develop the skills necessary to effectively participate in planning and decisionmaking relating to early intervention, educational, and transitional services and in systems change activities;

(2) parents, teachers, administrators, early intervention personnel, related services personnel, and transition personnel receive coordinated and accessible technical assistance and information to assist such persons through systems change activities and other efforts, to improve early intervention, educational, and transitional services and results, for children with disabilities and their families;

(3) appropriate technology and media are researched, developed, demonstrated, and made available in timely and accessible formats to parents, teachers, and all types of personnel providing services to children with disabilities to support their roles as partners in the improvement and implementation of

early intervention, educational, and transitional services and results, for children with disabilities and their families;

(4) children with disabilities understand (on reaching the age of majority specified under appropriate State law) their rights and responsibilities under part B, if the State provides for the transfer of parental rights under section 615(j) (as amended by section 206(c)(8) of the Individuals with Disabilities Education Act Amendments of 1996); and

(5) the general welfare of deaf and hard-of-hearing individuals is promoted by—

(A) bringing to such individuals understanding and appreciation of the films and television programs that play an important part in the general and cultural advancement of hearing individuals;

(B) providing, through the films and television programs, enriched educational and cultural experiences through which deaf and hard-of-hearing individuals can better understand the realities of their environment; and

(C) providing wholesome and rewarding experiences that deaf and hard-of-hearing individuals may share.

SEC. 642. DEFINITIONS.

As used in this part:

(1) EARLY INTERVENTION SERVICES.—The term "early intervention services" has the meaning given the term in section 632.

(2) INDIVIDUAL WITH A DISABILITY; INDIVIDUALS WITH DISABILITIES.—The terms "individual with a disability" and "individuals with disabilities" have the meanings given the terms in section 3 of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2202).

(3) PARTNERSHIP.—The term "partnership" means a partnership described in section 623(a).

SEC. 643. PARENT TRAINING AND INFORMATION.

(a) IN GENERAL.—

(1) GRANTS.—

(A) AUTHORITY.—The Secretary may competitively make grants to, or enter into contracts or cooperative agreements with, private, nonprofit organizations for the purpose of providing parent training and information activities for parents of children with disabilities, and persons who work with such parents, to enable the parents and persons to participate in, and conduct advocacy for, effective ways, including mediation, to meet the needs of and improve early intervention, educational, and transitional results for children with disabilities.

(B) CENTERS AND PROGRAMS.—Such activities may be provided—

(i) by an organization that operates or intends, if funded, to operate a parent training and information center described in subsection (b); and

(ii) by a parent organization that operates or intends, if funded, to operate a community parent training and information program described in subsection (c) that is designed specifically to build the capacity of persons

who work with parents of children with disabilities who are members of unserved, underserved, or inappropriately identified populations, to demonstrate and assist in the replication of models for such activities, and to provide such activities to address the needs of such parents.

(C) PROPOSAL.—The Secretary shall make such a grant to, or enter into such a contract or cooperative agreement with, an organization that proposes activities that are designed to meet the unique training and information needs, as determined by needs assessment data, of parents of children with disabilities who are living in the area to be served under the grant, contract, or cooperative agreement, particularly parents of children with disabilities who are members of unserved or underserved populations.

(2) ELIGIBLE ORGANIZATIONS; MEMBERSHIP AND GOVERNANCE.—To be eligible to apply to receive a grant, or enter into a contract or cooperative agreement, under this section, an organization—

(A) shall be governed by a board of directors that—

(i) represents a coalition, of which a majority of the members are parents of children with disabilities, particularly parents of children with disabilities who are members of unserved, underserved, or inappropriately identified populations; and

(ii) includes—

(I) professionals in fields related to the provision of early intervention services, special education, and related services; and

(II) individuals with disabilities; or

(B) shall have a membership that represents the interests of individuals with disabilities, and shall establish a special governing committee—

(i) of which a majority of the members are parents of infants and toddlers with disabilities or of children with disabilities;

(ii) that includes—

(I) professionals in fields related to the provision of early intervention services, special education, and related services; and

(II) individuals with disabilities; and

(iii) of which the parent and professional members are broadly representative of the population to be served by the organization.

(3) ELIGIBLE ORGANIZATIONS; CAPACITY AND EXPERTISE.—To be eligible to receive a grant, or enter into a contract or cooperative agreement, under this section, an organization shall demonstrate the capacity and expertise necessary—

(A) to conduct the parent training and information activities described in paragraph (1); and

(B) to work with partnerships carrying out State systems change activities under part C, seeking to improve early intervention, educational, and transitional services and results, for children with disabilities.

(b) PARENT TRAINING AND INFORMATION CENTERS; AUTHORIZED ACTIVITIES.—Each organization that receives a grant, or enters into a contract or cooperative agreement, under subsection (a) to operate a parent training and information center shall—

(1) provide parent training and information activities that meet the training and information needs of all parents of children with disabilities living in the area to be served under the grant, contract, or cooperative agreement, particularly parents of children with disabilities who are members of unserved or underserved populations;

(2) serve the parents of children with disabilities who, collectively, have the full range of disabilities;

(3) assist the parents of children with disabilities in better understanding the nature of the disabilities of their children and the needs of their children to obtain improved early intervention, educational, and transitional services and results;

(4) assist such parents in communicating effectively with early intervention services personnel, general and special education personnel, administrators, and other relevant persons;

(5) assist such parents in participating in decisionmaking processes, including the development of individualized education programs under part B and individualized family service plans under part H, for children with disabilities;

(6) assist such parents in obtaining appropriate information about the range of options, programs, supports, and resources available at national, State, and local levels to assist children with disabilities and their families;

(7) assist such parents in understanding the provisions of this Act relating to the education of, and provision of early intervention services for, children with disabilities;

(8) assist such parents in participating as informed participants in State systems change activities, especially systems change activities funded under part C;

(9) ensure that parents of children who are members of inappropriately identified populations, and who are being referred for or are receiving special education services, are informed about problems connected with inappropriately identifying such children as described in section 602(a)(13);

(10) assist children with disabilities, particularly such children who are members of unserved or underserved populations, in understanding their rights and responsibilities under this Act on reaching the age of majority for the State in which such a child resides, if the State provides for the transfer of parental rights under section 615(j) (as amended by section 206(c)(8) of the Individuals with Disabilities Education Act Amendments of 1996) to the children;

(11) report to the Secretary on—

(A) the number of such parents for whom the organization provided parent training and information activities; and

(B) the effectiveness of strategies used to reach and serve such parents, including low-income parents from urban areas, low-income parents from rural areas, parents with

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limited-English proficiency who have children with disabilities, and parents with disabilities;

(12) establish cooperative relationships with all other entities operating parent training and information centers, including community parent training and information programs described in subsection (c), in the State in which the organization is operating a parent training and information center; and

(13) consult and establish networks with appropriate national, regional, and local agencies and organizations, such as protection and advocacy agencies, within the geographic area served by the organization, that serve or assist children with disabilities and their families.

(c) COMMUNITY PARENT TRAINING AND INFORMATION PROGRAMS; AUTHORIZED ACTIVITIES.—

(1) IN GENERAL.—Each parent organization that receives a grant, or enters into a contract or cooperative agreement, under subsection (a) to carry out a community parent training and information program shall build the capacity, demonstrate and assist in the replication of the models, and provide the activities described in subsection (a)(1)(B)(ii).

(2) PARENTS ASSISTED.—Each such parent organization shall build such capacity, demonstrate and assist in the replication of such models, and provide such activities, in a manner that will help ensure that parents of children with disabilities who are members of unserved or underserved populations participate in parent training and information activities.

(3) OBJECTIVES.—The services described in paragraph (1) shall result in new capacity, demonstrated and replicated models, and training and information activities, needed to enable the parents described in paragraph (2) to participate effectively in helping their children with disabilities and to serve as informed participants in partnerships within their State, leading to improved early intervention, educational, and transitional services and results, for all children with disabilities and their families.

(4) COMMUNITY TRAINING AND INFORMATION ACTIVITIES.—Such services shall—

(A) include capacity building, demonstration and replication of models, and the provision of training and information activities, that meet the needs of parents of children with disabilities who are members of unserved or underserved populations;

(B) include activities carried out through cooperative relationships with the parent training and information centers;

(C) include accommodations and strategies to meet the specific needs of families who experience significant isolation from available sources of information and support;

(D) demonstrate, utilize, and document the use and effectiveness of, model approaches to address the multiple needs of children with disabilities who are members of unserved or underserved populations; and

(E) ensure that parents of children who are members of inappropriately identified populations, and who are being

referred for or are receiving special education services, are informed about problems connected with inappropriately identifying such children as described in section 602(a)(13).

(5) REPORT.—Each parent organization that receives a grant, or enters into a contract or cooperative agreement, under subsection (a) to operate a community parent training and information program shall report to the Secretary on—

(A) the number of parents of children with disabilities who are members of unserved or underserved populations for whom the organization provided parent training and information activities;

(B) the effectiveness and impact of strategies used to reach and serve such parents; and

(C) the impact of the increased capacity described in subsection (a)(1)(B)(ii) on the provision of parent training and information activities and on improved early intervention, educational, and transitional results for such children.

(d) TECHNICAL ASSISTANCE; AUTHORIZED ACTIVITIES.—The Secretary may provide technical assistance to organizations to—

(1) carry out parent training and information activities by—

(A) coordinating parent training efforts; and

(B) providing or helping to disseminate information to centers funded under this part; and

(2) develop, coordinate, and disseminate information on the following parent training and information activities:

(A) Assisting the centers in evaluating their activities under this part.

(B) Promoting the use of technology by the centers to make information available.

(C) Reaching parents of children with disabilities who are members of unserved or underserved populations.

(D) Including children with disabilities in general education programs.

(E)(i) Supporting the transition of children with disabilities from—

(I) early intervention services to preschool;

(II) preschool to elementary school; and

(III) secondary school to postsecondary school and employment.

(ii) Promoting mediation and alternative methods of dispute resolution for children with disabilities.

(F) Assisting parent training and information centers in becoming effective partners in State systems change activities, leading to improved early intervention, educational, and transitional results for children with disabilities.

(e) APPLICATIONS.—Any eligible entity that wishes to receive a grant, or enter into a contract or cooperative agreement, under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $13,600,000 for fiscal year 1998, and such sums as may be necessary for each of fiscal years 1999 through 2002.

SEC. 644. COORDINATED TECHNICAL ASSISTANCE AND DISSEMINATION.

(a) IN GENERAL.—The Secretary may, directly or by competitively making grants and entering into contracts and cooperative agreements with eligible entities, provide technical assistance and information through institutes, resource centers, clearinghouses, and programs that support States and local entities in building capacity to improve early intervention, educational, and transitional services and results, for children with disabilities and their families, and address systems change goals and priorities.

(b) SYSTEMIC TECHNICAL ASSISTANCE; AUTHORIZED ACTIVITIES.—In carrying out this section, the Secretary may carry out or support any technical assistance activities that are consistent with the objectives described in subsection (a), including activities that—

(1) assist States, local educational agencies, and other members of partnerships with the process of planning systemic changes that will promote improved early intervention, educational, and transitional results for children with disabilities;

(2) promote change through a multistate or regional framework that benefits States, local educational agencies, and other members of partnerships, that are in the process of achieving systems change outcomes;

(3) increase the depth and utility of information in ongoing and emerging areas of priority need identified by States, local educational agencies, and other members of partnerships, that are in the process of achieving systems change outcomes; and

(4) develop long-term working relationships with States, local educational agencies, and other members of partnerships, by—

(A) developing familiarity with the practices, procedures, and policies of the States, agencies, and other members;

(B) providing services that are based on the needs and concerns identified by the members of the partnerships, rather than on externally imposed criteria or topics;

(C) focusing on accountability of the States, agencies, and other members for improved early intervention, educational, and transitional results for children with disabilities; and

(D) coordinating activities with clearinghouses to disseminate information and data on needs and results of children with disabilities.

(c) INTERORGANIZATIONAL TECHNICAL ASSISTANCE; AUTHORIZED ACTIVITIES.—In carrying out this section, the Secretary may carry out or support any activities that are consistent with the objectives described in subsection (a), including activities for States, local educational agencies, and other members of partnerships, that—

(1) focus on major requirements of this Act as determined by the Secretary, in which interorganizational issues are present and are perceived to be barriers to systemic change and to improved early intervention, educational, and transitional results for children with disabilities;

(2) facilitate interorganizational collaboration at Federal, State, and local levels in order to achieve such change and such improved results; and

(3) consist of extensive collaboration with noneducation entities (such as entities that provide services for infants and toddlers with disabilities, early intervention services, mental health services, health services, and vocational rehabilitation services) in order to facilitate systems change outcomes and the improvement of early intervention, educational, and transitional results for children with disabilities.

(d) SPECIALIZED TECHNICAL ASSISTANCE; AUTHORIZED ACTIVITIES.—In carrying out this section, the Secretary may carry out or support any activities that are consistent with the objectives described in subsection (a), including activities that—

(1) focus on specific areas of high priority need that—

(A) are identified by States, local educational agencies, and other members of partnerships;

(B) require the development of new knowledge, or the analysis and synthesis of substantial bodies of information not readily available to the States, agencies, and other members; and

(C) will contribute significantly to the improvement of early intervention, educational, and transitional services and results, for children with disabilities and their families;

(2) focus on needs and issues that are specific to a population of children with disabilities, such as the provision of single State and multi-State technical assistance and inservice training to—

(A) schools and agencies serving deaf-blind children and their families; and

(B) programs and agencies serving other groups of children with low-incidence disabilities and their families; and

(3) address the postsecondary education needs of individuals who are deaf or hard of hearing through the operation of 4 model regional center programs.

(e) NATIONAL INFORMATION DISSEMINATION AND REFERRAL; AUTHORIZED ACTIVITIES.—In carrying out this section, the Secretary may carry out or support information dissemination and referral activities that are consistent with the objectives described in subsection (a), including activities that address national needs for the preparation and dissemination of information relating to eliminating barriers to systems change outcomes and improving early intervention, educational, and transitional results for children with disabilities, including information relating to—

(1) infants and toddlers with disabilities and their families, and children with disabilities (including youth with disabilities) and their families;

(2) the provision of services and supports to deaf-blind children;

(3) the provision of services to blind and print-disabled children;

(4) the provision of postsecondary services to individuals with disabilities; and

(5) the need for and use of personnel to provide services to children with disabilities.

(f) National Technical Assistance and Dissemination Coordination Activities; Authorized Activities.—In carrying out this section, the Secretary may carry out or support any activities that are consistent with the objectives described in subsection (a), including activities that—

(1) link and coordinate activities of—

(A) all information and technical assistance programs funded under this Act; and

(B) other programs that support systems change outcomes, including programs that involve early intervention, educational, or transitional services;

(2) coordinate national information on issues that—

(A) are of critical interest to State educational agencies and local educational agencies, other agency personnel, parents of children with disabilities, and individuals with disabilities; and

(B) include issues relating to—

(i) educational reform and systemic change within States;

(ii) interorganizational collaboration and service provision;

(iii) personnel recruitment, retention, and preparation;

(iv) services for populations of children with low-incidence disabilities, including deaf-blind children, and targeted age groupings;

(v) promoting schools that are safe and conducive to learning; and

(vi) early intervention services and results;

(3) provide information on organizing systems and information networks, concerning information retrieval and dissemination; and

(4) provide information concerning the value and effectiveness of technical assistance and dissemination activities and their impact on improved early intervention, educational, and transitional services and results, for children with disabilities and their families.

(g) Applications.—An eligible entity that wishes to receive a grant, or enter into a contract or cooperative agreement, under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(h) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section $36,434,000 for fiscal year 1998, and such sums as may be necessary for each of fiscal years 1999 through 2002.

SEC. 645. TECHNOLOGY DEVELOPMENT, DEMONSTRATION, AND UTILIZATION, AND MEDIA SERVICES.

(a) In General.—The Secretary may competitively make grants to, and enter into contracts and cooperative agreements with, eligible entities and consortia of eligible entities, to support activities described in subsections (b) and (c).

(b) TECHNOLOGY DEVELOPMENT, DEMONSTRATION AND UTILIZATION; AUTHORIZED ACTIVITIES.—In carrying out this section, the Secretary may support activities that consist of—

(1) conducting research and development activities on the use of innovative and emerging technologies for children with disabilities;

(2) promoting the demonstration and use of innovative and emerging technologies for children with disabilities by improving and expanding the transfer of technology from research and development to practice;

(3) providing technical assistance, to recipients of other assistance under this section, concerning the development of accessible, effective, and usable products;

(4) communicating information on available technology and the uses of such technology to assist children with disabilities;

(5) supporting the implementation of research programs on captioning or video description;

(6) supporting research, development, and dissemination of technology with universal design features, so that the technology is accessible to individuals with disabilities without further modification or adaptation; and

(7) demonstrating the use of publicly funded telecommunications systems to provide parents and teachers with information and training concerning early diagnosis of, intervention for, and effective teaching strategies for young children with reading disabilities.

(c) EDUCATIONAL MEDIA SERVICES; AUTHORIZED ACTIVITIES.—In carrying out this section, the Secretary may support activities that consist of—

(1) carrying out educational media activities that are designed to be of educational value to children with disabilities;

(2) providing video description, open captioning, or closed captioning of television programs, videos, or educational materials;

(3) distributing captioned and described videos or educational materials;

(4) providing, through the national education library for the blind and print-disabled, recorded free educational materials, including textbooks, for visually impaired and print-disabled students in elementary, secondary, postsecondary, and graduate schools;

(5) providing, through the National Theater of the Deaf and other appropriate nonprofit organizations, cultural experiences—

(A) enriching the lives of deaf and hard-of-hearing children and adults;

(B) increasing public awareness and understanding of deafness and of the artistic and intellectual achievements of deaf and hard-of-hearing persons; and

(C) promoting the integration of hearing, deaf, and hard-of-hearing persons through shared cultural, educational, and social experiences; and

(6) compiling and evaluating appropriate data relating to the activities described in paragraphs (1) through (5).

(d) APPLICATIONS.—Any eligible entity that wishes to receive a grant, or enter into a contract or cooperative agreement, under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $30,000,000 for fiscal year 1998, and such sums as may be necessary for each of fiscal years 1999 through 2002.

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INDIVIDUALS WITH DISABILITIES EDUCATION ACT

* * * * * * *

SEC. 671(b) POLICY.—It is therefore the policy of the United States to provide financial assistance to States—

(1) to develop and implement a statewide, comprehensive, coordinated, multidisciplinary, interagency [program of] *system that provides* early intervention services for infants and toddlers with disabilities and their families,

(2) to facilitate the coordination of payment for early intervention services from Federal, State, local, and private sources (including public and private insurance coverage), [and]

(3) to enhance their capacity to provide quality early intervention services and expand and improve existing early intervention services being provided to infants and toddlers with disabilities and their families[.], *and*

(4) to encourage States to expand opportunities for children from birth through age 2 who are at risk of having substantial developmental delays if early intervention services are not provided to the children.

* * * * * * *

[SEC. 672. As used in this part—]

SEC. 672. DEFINITIONS.—As used in this part—

[(4)] *(1) COUNCIL.*—The term "Council" means the State Interagency Coordinating Council established under section 682.

[(3)] *(2) DEVELOPMENTAL DELAY.*—The term "developmental delay" has the meaning given such term by a State under section 676(b)(1).

[(2)] *(3) EARLY INTERVENTION SERVICES.*— * * *

* * * * * * *

[(1)] *(4) INFANT OR TODDLER WITH A DISABILITY.*—[The term "infants and toddlers with disabilities" means individuals] *The term "infant or toddler with a disability" means a child"* from [birth to age 2, inclusive, who need early intervention services because they] *birth through age 2 who needs early intervention services because the child—*

(A) [are experiencing developmental delays] *is experiencing a developmental delay*, as measured by appropriate diagnostic instruments and procedures in one or more of the following areas: cognitive development, physical development, language and speech development (hereafter in this part referred to as "communication development"), psychosocial development (hereafter in this part referred to as "social or emotional development"), or self-help skills (hereafter in this part referred to as "adaptive development"), or

(B) [have] *has* a diagnosed physical or mental condition [which] *that* has a high probability of resulting in developmental delay.

[Such term may also include, at a State's discretion, individuals from birth to age 2, inclusive, who are at risk of having substantial developmental delays if early intervention services are not provided.] *Such term may also include, at the discretion of a State, a child from birth through age 2 who is at risk of having a substantial developmental delay if early intervention services are not provided (referred to individually in this part as an "at risk infant or toddler" and collectively in this part as "at risk infants and toddlers").*

* * * * * * *

(5) INFANTS AND TODDLERS WITH DISABILITIES. The term "infants and toddlers with disabilities" means more than 1 infant or toddler with a disability.

* * * * * * *

SEC. 673. The Secretary shall, in accordance with this part, make grants to States (from their allocations under section 684) to assist each State to [develop] *implement* a statewide, comprehensive, coordinated, multidisciplinary, interagency system to provide early intervention services for infants and toddlers with disabilities and their families.

* * * * * * *

ELIGIBILITY

SEC. 674. [General eligibility] In order to be eligible for a grant under section 673 for any fiscal year, a State shall demonstrate to the Secretary (in its application under section 678) that the [State has established a State Interagency Coordinating Council which meets the requirements of section 682.] *State has in effect the statewide system that is required by section 676.*

* * * * * * *

[SEC. 675. CONTINUING ELIGIBILITY.—

[(a) First two years. In order to be eligible for a grant under section 673 for the first or second year of a State's participation under this part, a State shall include in its application under section 678 for that year an assurance that funds received under section 673 shall be used to assist the State to plan, develop, and implement the statewide system required by section 676.

[(b) Third and fourth year.

[(1) In order to be eligible for a grant under section 673 for the third or fourth year of a State's participation under this part, a State shall include in its application under section 678 for that year information and assurances demonstrating to the satisfaction of the Secretary that—

[(A) the State has adopted a policy which incorporates all of the components of a statewide system in accordance with section 676 or obtained a waiver from the Secretary under paragraph (2),

[(B) funds shall be used to plan, develop, and implement the statewide system required by section 676, and

[(C) such statewide system will be in effect no later than the beginning of the fourth year of the State's participation under section 673, except that in order to comply with section 676(b)(4), a State need only conduct multidisciplinary assessments, develop individualized family service plans, and make available case management services.

[(2) Notwithstanding paragraph (1), the Secretary may permit a State to continue to receive assistance under section 673 during such third year even if the State has not adopted the policy required by paragraph (1)(A) before receiving assistance if the State demonstrates in its application—

[(A) that the State has made a good faith effort to adopt such a policy,

[(B) the reasons why its was unable to meet the timeline and the steps remaining before such a policy will be adopted, and

[(C) an assurance that the policy will be adopted and go into effect before the fourth year of such assistance.

[(c) Fifth and succeeding years. In order to be eligible for a grant under section 673 for a fifth and any succeeding year of a State's participation under this part, a State shall include in its application under section 678 for that year information and assurances demonstrating to the satisfaction of the Secretary that the State has in effect the statewide system required by section 676 and a description of services to be provided under section 676(b)(2).

[(d) EXCEPTION.—Notwithstanding subsections (a) and (b), a State which has in effect a State law, enacted before September 1, 1986, that requires the provision of free appropriate public education to children with disabilities from birth through age 2, inclusive, shall be eligible for a grant under section 673 for the first through fourth years of a State's participation under this part.

[(e) DIFFERENTIAL FUNDING FOR FOURTH OR FIFTH YEAR.—

[(1) IN GENERAL.—Notwithstanding any other provision of this part, a State shall be eligible for a grant under section 673 for fiscal years 1990, 1991, or 1992 if—

[(A) the State satisfies the eligibility criteria described in subsection (b)(1) pertaining to the State's third or fourth year of participation under this part and

[(B) the Governor, on behalf of the State, submits, by a date that the Secretary may establish for each such year, a request for extended participation, including—

[(i) information demonstrating to the Secretary's satisfaction that the State is experiencing significant hardships in meeting the requirements of this section for the fourth or fifth year of participation; and

[(ii) a plan, including timelines, for meeting the eligibility criteria described in subsections (b)(1) and (c) for the fourth, fifth, or succeeding years of participation.

[(2) APPROVAL OF REQUEST.—

[(A) First year. The Secretary shall approve a State's request for a first year of extended participation under this subsection if the State meets the requirements of paragraph (1).

[(B) Second year. The Secretary shall approve a State's request for a second year of extended participation under this subsection if State—

[(i) meets the requirements of paragraph (1); and

[(ii) demonstrates to the Secretary's satisfaction that the State has made reasonable progress in implementing the plan described in paragraph (1)(B)(ii).

[(3) DURATION.—The Secretary may not approve more than two requests from the same State for extended participation under this subsection.

[(4) PAYMENT.—

[(A) Fiscal year 1990. Notwithstanding any other provision of law, each State qualifying for extended participation under this subsection for fiscal year 1990 shall receive a payment under this part in an amount equal to such State's payment under this part for fiscal year 1989.

[(B) Fiscal year 1991 or 1992. Except as provided in subparagraph (C) and notwithstanding any other provision of law, each State qualifying for extended participation under this subsection for fiscal year 1991 or fiscal year 1992 shall receive a payment under this part for such fiscal years in an amount equal to the payment such State would have received under this part for fiscal year 1990 if such State had met the criteria for the fourth year of participation described in subsection (b)(1).

[(C) Minimum payment for fiscal year 1991 or 1992 for certain states. Notwithstanding any other provision of law, each State qualifying for extended participation under this subsection for fiscal year 1991 or fiscal year 1992 shall receive a payment under this part of not less than $500,000. For purposes of the preceding sentence, the term "State" means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

[(5) REALLOTMENT.—

[(A) Fiscal year 1990. The amount by which allotment computed under section 684 for any State for fiscal year 1990 exceeds the amount that such State may be allotted under paragraph (4)(A) of this subsection (and, notwithstanding section 684(d), any fiscal year 1990 funds allotted to any State that such State elects not to receive) shall be reallotted, notwithstanding the percentage limitations set forth in sections 684(a) and (b), among those States satisfying the eligibility criteria of subsection (b)(1) for the fourth year of participation that have submitted an application by a date that the Secretary may establish in an amount which bears the same ratio to such amount as the amount of such State's allotment under section 684 as modified by this subsection in such fiscal year bears to the amount of all States' allotment under section 684 as modified by this subsection in such fiscal year.

[(B) Fiscal year 1991 or 1992. The amount by which a State's allotment computed under section 684 for any State for fiscal years 1991 or 1992 exceeds the amount that that such State may be allotted for such fiscal year under paragraph (4)(B) of this subsection shall be reallotted, notwithstanding the percentage limitations set forth in section 684(a) and (b)—

[(i) first, among those States satisfying the eligibility criteria of subsection (c) for the fifth year of participation that have submitted applications by a date that the Secretary may establish for each such year in an amount which bears the same ratio to such amount as the amount of such State's allotment under section 684 as modified by this subsection in such fiscal year bears to the amount of all such States' allotment under section 684 as modified by this subsection in such fiscal year, except that no such State, by operation of this clause, shall receive an increase of more than 100 percent over the amount such State would have otherwise received under section 684 for the previous fiscal year;

[(ii) second, if funds remain, among those States that have—

[(I) satisfied the eligibility criteria of subsection (b)(1) for the fourth year of participation;

[(II) qualified for extended participation under this subsection; and

[(III) not received a reallotment payment under clause (i), in an amount which bears the same ratio to such amount as the amount of such State's allotment under section 684 as modified by this subsection in such fiscal year bears to the amount of all such State's allotment under section 684 as modified by this subsection in such fiscal year, except that no State, by operation of this clause, shall receive a reallotment payment that is larger than the payment such State would otherwise have received under section 684 for such year; and

[(iii) third, if funds remain, among those States satisfying the eligibility criteria of subsection (c) for the fifth year of participation that did not receive a reallotment payment under clause (ii) in an amount which bears the same ratio to such amount as the amount of such State's allotment under section 684 as modified by this subsection in such fiscal year bears to the amount of all such States' allotment under section 684 as modified by this subsection in such fiscal year.

[(6) DEFINITIONS.—For the purpose of this subsection, the term "State", except as provided in paragraph (4)(C), means—

[(A) each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico;

[(B) each of the jurisdictions listed in section 684(a); and

[(C) the Department of the Interior.]

*   *   *   *   *   *   *

SEC. 676. Requirements for statewide system

(a) IN GENERAL.—A [statewide system of] *statewide,* coordinated, comprehensive, multidisciplinary, interagency [programs providing] *system that provides* appropriate early intervention services to all infants and toddlers with disabilities and their families, including Indian infants and toddlers with disabilities on reservations, shall include the minimum components under subsection (b).

(b) MINIMUM COMPONENTS.—The statewide system required by subsection (a) shall include, at a minimum—

(1) a definition of the term ["developmentally delayed"] *developmental delay* that will be used by the State in carrying out programs under this part,

[(2) timetables for ensuring that appropriate early intervention services will be available to all infants and toddlers with disabilities, including Indian infants and toddlers with disabilities on reservations, in the State before the beginning of the fifth year of a State's participation under this part,]

(2) a State policy that is in effect and that ensures that appropriate early intervention services are available to all infants and toddlers with disabilities (including Indian infants and toddlers with disabilities on reservations) in the State and their families,

*   *   *   *   *   *   *

(6) a public awareness program focusing on early identification of infants and toddlers with disabilities, including the preparation and dissemination by the lead agency to all primary referral sources of information materials for parents on the availability of early intervention services, and procedures for determining the extent to which primary referral sources, especially hospitals and physicians, disseminate information on the availability of early intervention services to parents of [infants with] *infants and toddlers with* disabilities,

*   *   *   *   *   *   *

(8) a comprehensive system of personnel development, including the training of paraprofessionals and the training of primary referral sources respecting the basic components of early intervention services available in the State, that is consistent with the comprehensive system of personnel development described in section [613(a)(3)] *612(a)(14) (as amended by section 202 of the Individuals With Disabilities Education Act Amendments of 1996)* and that may include—

*   *   *   *   *   *   *

(C) training personnel to work in rural areas *and inner city areas,* and

(D) training personnel to coordinate transition services for infants and toddlers with disabilities from an early intervention program under this part to [a preschool program under section 619 of part B.] *preschool or other appropriate services,*

* * * * * * *

(13)(B) to the extent such standards are not based on the highest requirements in the State applicable to a specific profession or discipline, the steps the State is taking to require the retraining or hiring of personnel that meet appropriate professional requirements in the State, [and]

(14) a system for compiling data [on the numbers of infants and toddlers with disabilities and their families in the State in need of appropriate early intervention services (which may be based on a sampling of data), the numbers of such infants and toddlers and their families served, the types of services provided (which may be based on a sampling of data), and other information required by the Secretary.] *that is requested by the Secretary under section 618 and that relates to this part, and*

(15) a Council that meets the requirements of section 682.

* * * * * * *

SEC. 677(3) a written individualized family service plan developed by a multidisciplinary team, including the [parent or guardian] *parents of the infant or toddler*, as required by subsection (d).

* * * * * * *

(d)(8) the steps to be taken [supporting] *to support* the transition of the toddler with a disability to [services provided under part B of this Act to the extent such services are considered appropriate.] *preschool or other appropriate services.*

(e) PARENTAL CONSENT.—The contents of the individualized family service plan shall be fully explained to the parents [or guardian] and informed written consent from such parents [or guardian] shall be obtained prior to the provision of early intervention services described in such plan. If such parents [or guardian] do not provide such consent with respect to a particular early intervention service, then the early intervention services to which such consent is obtained shall be provided.

* * * * * * *

SEC. 678(a)(3) information demonstrating eligibility of the State under section 674[,], *including—*

(A) information demonstrating to the satisfaction of the Secretary that the State has in effect a statewide system required by section 676, and

(B) a description of services to be provided to infants and toddlers with disabilities and their families under this part,

[(4) the information or assurances required to demonstrate eligibility of the State for the particular year of participation under section 675,]

(4) a statement regarding whether the State will serve at risk infants and toddlers as infants and toddlers with disabilities,

* * * * * * *

(6) a description of the uses for which funds will be expended in accordance with this [part and, for the fifth and succeeding fiscal years a description of the services to be provided,] *part,*

* * * * * * *

[(8) a description of the policies and procedures used to ensure a smooth transition for individuals participating in the early intervention program under this part who are eligible for participation in preschool programs under part B, including a description of how the families will be included in the transitional plans and how the lead agency under this part will notify the appropriate local educational agency or intermediate educational unit in which the child resides and convene, with the approval of the family, a conference between the lead agency, the family, and such agency or unit at least 90 days before such child is eligible for the preschool program under part B in accordance with State law, and to review the child's program options, for the period commencing on the day a child turns 3 running through the remainder of the school year, and to establish a transition plan, and]

(8) a description of the policies and procedures to be used—

(A) to ensure a smooth transition for children who are infants and toddlers with disabilities receiving early intervention services under this part to preschool or other appropriate services, including a description of—

(i) how the family of such a child will be included in the transition plans required by subparagraph (C), and

(ii) how the lead agency designated or established under section 676(b)(9) will—

(I) notify the local educational agency for the area in which such a child resides that the child will shortly reach the age for eligibility for preschool services under part B, as determined in accordance with State law,

(II) in the case of such a child who may be eligible for such preschool services, with the approval of the family of the child, convene a conference among the lead agency, the family, and the local educational agency not later than 90 days (and at the discretion of all such parties, earlier, but not earlier than 6 months) before the child is eligible for the preschool services, to discuss any such services that the child may receive, and

(III) in the case of such a child who may not be eligible for such preschool services, with the approval of the family, make reasonable efforts to convene a conference among the lead agency, the family, and providers of other appropriate services for children who are not eligible for preschool services under part B, to discuss the appropriate services that the child may receive,

(B) to review the program options for the child for the period beginning on the third birthday of the child and ending on the last day of the school year in which such birthday occurs, and

(C) to establish a transition plan for the child, and

* * * * * * *

SEC. 678(b)(7) [beginning in fiscal year 1992,] provide satisfactory assurances that policies and practices have been adopted to ensure meaningful involvement of traditionally underserved groups, including minority, low-income [and rural] *rural, and inner city* families, in the planning and implementation of all the requirements of this part and to ensure that such families have access to culturally competent

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SEC. 679. In addition to using funds provided under section 673 to [plan, develop, and] implement the statewide system required by section 676, a State may use such funds—

*   *   *   *   *   *   *

(2) to expand and improve on services for infants and toddlers with disabilities and their families that are otherwise available, [and]

(3) to provide a free appropriate public education, in accordance with part B, to children with disabilities from their third birthday to the beginning of the following school year[.], *and*

(4) in any State that does not provide services for at risk infants and toddlers under section 676(a), to strengthen the statewide system by initiating, expanding, or improving collaborative efforts related to at risk infants and toddlers, including establishing linkages with appropriate public, and private, community-based organizations, services, and personnel, for the purposes of—

(A) identifying and evaluating at risk infants and toddlers,

(B) making referrals of the infants and toddlers identified and evaluated under subparagraph (A), and

(C) conducting periodic followup on each such referral to determine if the status of the infant or toddler involved has changed with respect to the eligibility of the infant or toddler under this part.

*   *   *   *   *   *   *

[PROCEDURAL SAFEGUARDS]

[SEC. 680.]

SEC. 680. PROCEDURAL SAFEGUARDS.

(a) MINIMUM PROCEDURES.—[The procedural safeguards required to be included in a statewide system under section 676(b)(12) shall provide, at a minimum, the following:] *To meet the requirement of section 672(b)(12), each State, in providing a statewide system under this part, shall, through State statute, regulation, or other written policy, provide a minimum for the following:*

(1) The timely administrative resolution of complaints by parents. Any party aggrieved by the findings and decision regarding an administrative complaint shall have the right to bring a civil action with respect to the complaint[, which action may be brought] in any State court of competent jurisdiction or in a district court of the United States without regard to the amount in controversy. In any action brought under this paragraph, the court shall receive the records of the adminis-

trative proceedings, shall hear additional evidence at the request of a party, and, basing its decision on the preponderance of the evidence, shall grant such relief as the court determines is appropriate.

(2) The right to confidentiality of personally identifiable information, including the right of parents [or guardians] to written notice of and written consent to the exchange of such information among agencies consistent with Federal and State law.

(3) The right of the parents [or guardian] to determine whether they, their infant or toddler, or other family members will accept or decline any early intervention service under this part in accordance with State law without jeopardizing other early intervention services under this part.

(4) The opportunity for parents [or a guardian] to examine records relating to assessment, screening, eligibility determinations, and the development and implementation of the individualized family service plan.

(5) Procedures to protect the rights of the infant or toddler with a disability whenever the parents [or guardian] of the child are not known or unavailable or the child is a ward of the State, including the assignment of an individual (who shall not be an employee of the State agency providing services) to act as a surrogate for the parents [or guardian].

(6) Written prior notice to the parents [or guardian] of the infant or toddler with a disability whenever the State agency or service provider proposes to initiate or change or refuses to initiate or change the identification, evaluation, placement, or the provision of appropriate early intervention services to the infant or toddler with a disability.

(7) Procedures designed to assure that the notice required by paragraph (6) fully informs the parents [or guardian], in the parents' [or guardian's] native language, unless it clearly is not feasible to do so, of all procedures available pursuant to this section.

(8) The right to use mediation in accordance with section 615(e) (as amended by section 206(c)(7) of the Individuals with Disabilities Education Act Amendments of 1996), except that—

(A) a reference in such section to the State educational agency shall be considered to refer to the lead agency of the State designated or established under section 676(b)(9), and

(B) a reference in such section to a public agency shall be considered to refer to a local services provider or the lead agency, as the case may be.

[(8) During] *(b) SERVICES DURING PENDENCY OF PROCEEDINGS.—The procedural safeguards required to be included in a statewide system under section 676(b)(12) shall also include a measure to ensure that during* the pendency of any proceeding or action involving a complaint, unless the State agency and the parents [or guardian] otherwise agree, the child shall continue to receive the appropriate early intervention services currently being provided or, if applying for initial services, shall receive the services not in dispute.

* * * * * * *

SEC. 682(b)(1)(E) [At least one member shall be] *There shall be at least one member* from each of the State agencies involved in the provision of, or payment for, early intervention services to infant and toddlers with disabilities and their [families and] *families, and from any other State agency involved in the provision of services to at risk infants and toddlers, and each such member* shall have sufficient authority to engage in policy planning and implementation on behalf of [such agencies] *the appropriate agency.*

* * * * * * *

(H) At least one member shall be a representative from a Head Start agency or Head Start program in the State.

(I) At least one member shall be a representative from the State agency responsible for child care.

* * * * * * *

SEC. 682(e)(1)(C) advise and assist the State educational agency regarding the transition of toddlers with disabilities to [services provided under Part B, to the extent such services are appropriate, and] *preschool or other appropriate services, and*

* * * * * * *

(2) The Council may advise and assist the lead agency and the State educational agency regarding the provision of appropriate services for [children aged birth to 5, inclusive.] *children from birth through age 5.*

(3) The Council may advise appropriate agencies in the State with respect to the integration of services for infants and toddlers with disabilities (including at risk infants and toddlers) and their families, regardless of whether at risk infants and toddlers are eligible for early intervention services in the State.

* * * * * * *

[(g) Use of existing councils. To the extent that a State has established a Council before September 1, 1986, that is comparable to the Council described in this section, such Council shall be considered to be in compliance with this section. Within 4 years after the date the State accepts funds under section 673, such State shall establish a council that complies in full with this section.]

* * * * * * *

SEC. 683(3) any reference to local educational agencies and [intermediate educational agencies] *educational service agencies* shall be deemed to be a reference to local service providers under this part.

* * * * * * *

SEC. 684 [(a)] *(a)(1)* Territories and insular possessions. From the sums appropriated to carry out this part for any fiscal year, the Secretary may reserve *not more than* 1 percent for payments to Guam, American Samoa, the Virgin Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, the Republic of Palau, and the Commonwealth of the Northern Mariana Islands in accordance with their respective needs.

(2) The provisions of section 501 of Public Law 95–134 (48 U.S.C 1469a) (relating to permitting the consolidation of grants to insular

areas referred to in such section) shall not apply to funds the areas receive under this part.

* * * * * * *

(b)(2) [The Secretary of the Interior shall distribute the total amount of the 1.25 percent under paragraph (1) in the following manner:

(A) For the first fiscal year, each tribe or tribal organization shall receive an amount proportionate to the amount of weighted student units for special education programs for BIA operated or funded schools serving such reservation generated under the formula established under section 1128 of the Education Amendments of 1978, divided by the total number of such students in all BIA operated or funded schools.

(B) For each fiscal year thereafter, each tribe or tribal organization shall receive an amount based] *For each fiscal year, the Secretary of the Interior shall distribute the entire amount of a payment received under paragraph (1) by providing to each such tribe or tribal organization an amount based* on the number of infants and toddlers residing on [the reservation] *the reservation involved* as determined annually divided by the total of such children served by [all tribes] *all such tribes* or tribal organizations.

* * * * * * *

(4) The funds received by a tribe or tribal organization shall be used to assist States in child find, screening, and other procedures for the early identification of Indian [children aged 0–2 inclusive,] *children from birth through age 2* and for parent training. Such funds may also be used to provide early intervention services in accordance with this part. These activities may be carried out directly or through contracts or cooperative agreements with BIA, local educational agencies, and other [public or private nonprofit organizations] *public or private nonprofit agencies or organizations.* The tribe and tribal organization is encouraged to involve Indian parents in the development and implementation of these activities. The above entities shall, as appropriate, make referrals to local, State, or Federal entities for the provision of services or further diagnosis.

(c) The Secretary shall reserve up to .0005 of the amount appropriated under section 687 for any fiscal year for the operation of the Federal Interagency Coordinating Council established under section 685, other than activities of the panel of experts carried under section 686.

(d) The Secretary may reserve up to $100,000 for the expenses of the panel of experts established under section 686.

* * * * * * *

[(c)] *(e)* States.

(1) Except as provided in paragraphs [(3), (4), and (5)] *(2), (3), and (4)* from the funds remaining for each fiscal year after the reservation and payments under subsections [(a) and (b)] *(a) through (d) and section 618(f) (as amended by section 209 of the Individuals with Disabilities Education Act Amendments of 1996),* the Secretary shall first allot to each State an amount

that bears the same ratio to the amount of such remainder as the number of infants and toddlers in the State bears to the number of infants and toddlers in all States.

[(2) For fiscal year 1995 only, the Secretary shall allot $34,000,000 of the remaining funds described in paragraph (1) among the States in proportion to their relative numbers of infants and toddlers with disabilities who—

[(A) are counted on December 1, 1994; and

[(B) would have been eligible to be counted under section 1221(c)(1) of the Elementary and Secondary Education Act of 1965 (as such section was in effect on the day preceding the date of the enactment of the Improving America's Schools Act of 1994).]

[(3)] *(2)* Except as provided in [paragraphs (4) and (5)] *paragraphs (3) and (4),* no State shall receive an amount under this section for any fiscal year that is less than the greater of—

(A) one-half of one percent of the remaining amount described in paragraph (1), [excluding any amounts allotted under paragraph (2); or] *; or*

*   *   *   *   *   *   *

[(4)] *(3)* (A) Except as provided in paragraph [(5)] *(4),* no State shall receive an amount under this section for any of the fiscal years 1995 through 1999 that is less than the sum of the amount such State received for fiscal year 1994 under—

*   *   *   *   *   *   *

[(5)] *(4)* * * *

*   *   *   *   *   *   *

[(6)] *(5)* For the purpose of [paragraph (1)] *this subsection—*

(A) the terms "infants" and "toddlers" mean [children from birth to age 2, inclusive,] *children from birth through age 2;* and

(B) the term "State" [does not include the jurisdictions described in subsection (a).] *means each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.*

*   *   *   *   *   *   *

[(d)] *(f)* Election by State not to receive allotment. If any State elects not to receive its allotment under subsection [(c)(1)] *(e)(1),* the Secretary shall reallot, among the remaining States, amounts from such State in accordance with such

*   *   *   *   *   *   *

SEC. 685(a)(1)(A) minimize duplication programs and activities [relating to early intervention services for infants and toddlers with disabilities and their families, and preschool services for children with disabilities, across Federal, State, and local agencies;] *across Federal, State, and local agencies relating to—*

(i) early intervention services for infants and toddlers with disabilities (including at risk infants and toddlers) and their families; and

(ii) preschool or other appropriate services for children with disabilities;

* * * * * * *

SEC. 685(b)(2) a representative of the National Institute on Disability and Rehabilitation Research *and a representative of the Office of Educational Research and Improvement;*

* * * * * * *

(15) a representative of *the Children's Bureau, and a representative of the Head Start Bureau,* of the Administration for Children and Families;

(16) a representative of the [Alcohol, Drug Abuse and Mental Health Administration] *Substance Abuse and Mental Health Services Administration;*

(17) a representative of the Pediatric [Aids] *AIDS* Health Care Demonstration Program in the Public Health Service;

(18) [at least 3] parents of children with disabilities age 12 or under, *(which parents shall constitute at least 20 percent of the members of the council)* of whom at least one must have a child with a disability under the age of 6;

* * * * * * *

(d)(1) advise and assist the [Secretary in the performance of the Secretary's responsibilities described in this part;] *Secretary of Education, Secretary of Health and Human Services, Secretary of Defense, Secretary of the Interior, Secretary of Agriculture, and Commissioner of Social Security in the performance of their responsibilities related to serving children from birth through age 5 who are eligible for services under this part or under part B;*

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(f) FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the establishment or operation of the council.

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AUTHORIZATION OF APPROPRIATIONS

[Sec. 686. There are authorized to be appropriated to carry out this part $220,000,000 for fiscal year 1992, and such sums as may be necessary for [each of the fiscal years 1993 and 1994] *each of fiscal years 1993 through 1997.*]

SEC. 686. STUDY OF DEFINITION OF DEVELOPMENTAL DELAY.

(a) PANEL OF EXPERTS.—

(1) IN GENERAL.—Not later than 3 months after the date of enactment of the Individuals with Disabilities Education Act Amendments of 1996, the Federal Interagency Coordinating Council established under section 685 shall convene a panel of experts to develop recommendations to the Secretary for a model definition of the term 'developmental delay', to assist States in implementing section 676(b)(1).

(2) MEMBERS.—The panel shall include recognized experts in—

(A) health and child development, whose work includes—

(i) the evaluation and assessment of infants and toddlers with disabilities;

(ii) the study of congenital or perinatal disorders in children; or

(iii) the measurement of developmental milestones in infants and toddlers;

(B) the administration of disability programs for young children; and

(C) other fields that the Secretary finds to be appropriate.

(3) OTHER MEMBERSHIP REQUIREMENTS.—The panel shall—

(A) have no more than 12 members; and

(B) include at least 1 parent of a child with a disability who is younger than age 6.

(b) DUTIES.—In developing the recommendations referred to in subsection (a)(1), the panel shall—

(1) review the definition of infants and toddlers with disabilities specified in section 672(4);

(2) conduct an analysis of the criteria that are used by States under this part to determine whether an individual has a developmental delay or a diagnosed physical or mental condition, for purposes of ascertaining whether the individual is an infant or toddler with a disability; and

(3) consider the appropriateness of defining the term 'developmental delay' to include the combination of a multiplicity of factors that, when taken together, have a high probability of resulting in developmental delay (as specified in the remainder of the definition) if early intervention services are not provided.

(c) PANEL RECOMMENDATIONS.—The panel shall prepare and submit to the Secretary a report containing the recommendations developed under subsection (a) not later than 9 months after the date of enactment of the Individuals with Disabilities Education Act Amendments of 1996.

(d) MODEL DEFINITION.—After receiving the recommendations, the Secretary shall—

(1) publish the recommendations in the Federal Register;

(2) give interested parties an opportunity to submit written comments on the recommendations; and

(3) disseminate a model definition based on the recommendations, along with a summary of comments received.

(e) FEDERAL ADVISORY COMMITTEE ACT INAPPLICABLE.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the establishment or operation of the panel.

SEC. 687. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this part such sums as may be necessary for each of the fiscal years 1998 through 2002.

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Sec. 715 * * *

Notwithstanding any other provision of this title, [nothing in parts A through H of this title] *no provision of this title, other than a provision of this part,* shall be construed to apply to this part.

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HIGHER EDUCATION ACT OF 1965

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SEC. 409A(2)(2) a toll-free information line, including access by telecommunications devices for the deaf ("TDD"s'), to provide individualized financial assistance information to parents, students, and other individuals, including individuals with disabilities, and to [refer students with disabilities and their families to the postsecondary clearinghouse that is authorized under section 633(c) of the Individuals with Disabilities Education Act] *refer students with disabilities and their families to the activities addressing information preparation and dissemination needs relating to postsecondary services that are authorized under section 644(e)(4) of the Individuals with Disabilities Education Act*

*   *   *   *   *   *   *

SEC. 483(d) TOLL-FREE INFORMATION.—The Secretary shall contract for, or establish, and publicize a toll-free telephone service to provide timely and accurate information to the general public. The information provided shall include specific instructions on completing the application form for assistance under this title. Such service shall also include a service accessible by telecommunications devices for the deaf (TDD's) and shall, in addition to the services provided for in the previous sentence, [refer such students to the national clearinghouse on postsecondary education that is authorized under section 633(c) of the Individuals with Disabilities Education Act] *refer such students to the activities addressing information preparation and dissemination needs relating to postsecondary services that are authorized under section 644(e)(4) of the Individuals with Disabilities Education Act*

*   *   *   *   *   *   *

GOALS 2000: EDUCATE AMERICA ACT

*   *   *   *   *   *   *

SEC. 402(a)(2)(H)[(ii) parent centers for the parents of infants, toddlers, children, and youth with disabilities served under section 631(e) of the Individuals with Disabilities Education Act;]

> *(ii) parent training and information centers and community parent training and information programs authorized under subsections (b) and (c), repectively, of section 643 of the Individuals with Disabilities Education Act;*

*   *   *   *   *   *   *

REHABILITATION ACT OF 1973

*   *   *   *   *   *   *

105(b)(1)(A)(ii) at least one representative of [a parent training and information center established pursuant to section 631(e)(1) of the Individuals with Disabilities Education Act (20 U.S.C. 1431(e)(1))] *a parent training and information center or community parent training and information program authorized under sub-*

section (b) or (c), respectively, of section 643 of the Individuals with Disabilities Education Act

* * * * * * *

SEC. 803(c)(4)(A)(i) coordinate and work closely with [parent training and information centers established under section 631 of the Individuals with Disabilities Education Act (20 U.S.C. 1431)] *parent training and information centers and community parent training and information programs authorized under subsections (b) and (c), respectively, of section 643 of the Individuals with Disabilities Education Act*

* * * * * * *

(6) COORDINATION.—The Commissioner shall provide coordination and technical assistance by grant or cooperative agreement for establishing, developing, and coordinating the training and information programs. To the extent practicable, such assistance shall be provided by the [parent training and information centers established under section 631 of the Individuals with Disabilities Education Act (20 U.S.C. 1431)] *parent training and information centers and community parent training and information programs authorized under subsections (b) and (c), respectively, of section 643 of the Individuals with Disabilities Education Act*

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DEVELOPMENTAL DISABILITIES ASSISTANCE AND BILL OF RIGHTS ACT

SEC. 124(c)(4)(F)(ii) [parent training and information centers under part D] *parent training and information centers, and community parent training and information programs, assisted under part E* of the Individuals with Disabilities Education Act and other federally funded projects that assist parents of children with disabilities; and

* * * * * * *

TITLE 10, UNITED STATES CODE

SEC. 602(f)(3)(A) The term "children with disabilities" has the meaning given the term in [section 602(a)(1)] *section 602(a)(4)(C)* of the Individuals with Disabilities Education Act (20 U.S.C. [1401(a)(1)] *1401(A)(4)(C).*

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ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

SEC. 14603(2) collect data on the incidence of children with disabilities (as such term is defined in [section 602(a)(1)] *section 602(a)(4)(C)* of the Individuals With Disabilities Education Act (20 USCS 1401(a)(1)) engaging in life threatening behavior or bringing weapons to schools; and

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NATIONAL AND COMMUNITY SERVICE ACT OF 1990

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SEC. 101(21)(B) children with disabilities, as defined in [section 602(a)(1)] *section 602(a)(4)(C)* of the Individuals with Disabilities Education Act (20 U.S.C. [1401(a)(1)] *1401(a)(4)(C)*), who receive services under part B of such Act.

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PUBLIC HEALTH SERVICE ACT

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SEC. 563(d)(2) provide for each of such services that is appropriate to the circumstances of the child, including, except in the case of children who are less than 14 years of age, the provision of appropriate vocational counseling and rehabilitation, and transition services (as defined in [section 602(a)(19)] *section 602(a)(33)* of the Individuals with Disabilities Education Act);

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PUBLIC LAW 103–382

IMPROVING AMERICA'S SCHOOLS ACT OF 1994

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SEC. 314. LOCAL CONTROL OVER VIOLENCE.

(a) AMENDMENTS.—

(1) IN GENERAL.—Paragraph (3) of section 615(e) of the Act (20 U.S.C. 1415(e)(3)) is amended—

* * * * * * *

[(2) EFFECTIVE DATE.—Paragraph (1) and the amendments made by paragraph (1) shall be effective during the period beginning on the date of enactment of this Act and ending on the date of enactment of an Act (enacted after the date of the enactment of this Act) that reauthorizes the Individuals with Disabilities Education Act.]

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